

**Police, Fire and Crime**  
**Commissioner**  
**for Essex**

**Constitution**

July 2023  
Version 12.16

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### Version history

Version Number	Date	Reason for review	Comments
12.1	October 2018	Update of previous constitution with various areas for inclusion since becoming PFCC	
12.2	October 2018		Sent to Sharpe Pritchard for review
12.3	October 2018	Updated in line with advice from Sharpe Pritchard	
12.4	November 2018	Reviewed and updated by the Monitoring Officer	
12.5	November 2018	Reviewed and updated in light of comments received from the PFCC and Deputy PFCC	
12.6	April 2019	Updated in line with feedback received from the Chief Constable, Essex Police's Monitoring Officer and the Essex Police, Fire and Crime Panel. Schedule 4 replaced with the revised Financial Management Code of Practice released in 2018 Schedule 14 replaced with an updated version agreed by	

		<p>the Joint Audit Committee in March 2019.</p> <p>Schedule 15 updated following internal policies and strategies review.</p>	
12.7	July 2019	<p>Essex Emergency Services Collaboration Strategic Governance Board Terms of Reference included as Appendix 4 to the Constitution</p>	<p>Agreed in principle at Essex Emergency Services Collaboration Strategic Governance Board on 5 July 2019. Formally approved via Decision Report 104/19.</p>
12.8	August 2021	Scheduled review	<p>Updated throughout to reflect the PFCC's staffing restructure.</p> <p>Appendix 2 replaced with updated Terms of Reference approved by the Joint Audit Committee in September 2020.</p> <p>Schedule 1 updated to reflect the Elected Local Policing Bodies (Specified Information) (Amendment) Order 2012, 2013 and 2021 as well as the Elected Local Policing Bodies (Specified Information) Order 2011.</p> <p>Schedule 3 replaced with the version agreed with the Monitoring Officer to the Police, Fire and Crime Panel in January 2020.</p> <p>Schedule 5 updated in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>Schedule 16 added for consistency with the PFCCFRA Constitution</p>

			and to clarify for staff and officers the correct template to be used.
12.9	August 2021	Updated to reflect proposed changes to the Decision Report template (Schedule 16) considered by the Management Team on 24 August 2021.	
12.10	September 2021	Updated to reflect feedback from the PFCC and Deputy PFCC	
12.11	October 2021	Appendix 1 updated with revised ToR adopted by the Strategic Board in September 2021. Appendix 3 updated with revised ToR agreed by the P&R Board in July 2021 and Strategic Board in September 2021. Appendix 4 updated with revised ToR adopted by the Essex Emergency Services Collaboration Strategic Governance Board in October 2021.	
12.12	January 2022	Appendix 2 replaced with updated Terms of Reference approved by the Joint Audit Committee in December 2021.	
12.13	May 2023	Scheduled review	Subsection 1.7 amended in line with sections 16 – 18 of the Elections Act 2022. Subsections 3.2 and 3.3 updated in line with the Strategic Policing Requirement (February 2023). Subsections 3.13 and 3.14 added in accordance with the sections 14 and 17 of the Police, Crime,

			<p>Sentencing and Courts Act 2022.</p> <p>Subsection 4.14 added in accordance with section 11 (1) of the Trustee Investments Act 1961.</p> <p>Appendix 2 relaced with the version agreed by the Joint Audit Committee in March 2023.</p> <p>Schedule 5 (Part 1) updated to designate a deputy Monitoring Officer and deputy Section 151 Officer in line with agreed job descriptions, and to specify delegations relating to complaint handling.</p> <p>Schedule 14 replaced with the version endorsed by the Joint Audit Committee in December 2022.</p> <p>Schedule 15 updated to reflect changes in personnel.</p> <p>Content reviewed in light of guidance published by the Centre for Governance and Scrutiny in April 2023.</p>
12.14	June 2023	Updated following feedback from the PFCC's SMT	
12.15	June 2023	Updated following consultation with the Chief Constable, and to align with the Policing Protocol Order 2023	

12.16	July 2023	Updated following consultation via the PFCC's Strategic Board	Appendix 1 updated with version agreed by the Strategic Board in June 2023 Appendix 3 updated with the version agreed by the Performance and Resources Board in June 2023
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# CONTENTS

## The Constitution Articles

### Article 1 – The Constitution

- 1.1 The Constitution
- 1.2 Purpose of the Constitution
- 1.3 Maintaining and updating this Constitution
- 1.4 Election
- 1.5 Term of office
- 1.6 Persons entitled to vote
- 1.7 Voting at elections for the PFCC

### Article 2 - Citizens' Rights and Responsibilities

### Article 3 - The Police, Fire and Crime Commissioner: Powers, Function and Duties

- 3.1 Role of the Police, Fire and Crime Commissioner
- 3.2 Powers, functions and duties
- 3.3 Duty to Issue a Police and Crime Plan
- 3.4 Purpose of the Police and Crime Plan
- 3.5 Duty to have regard to the Police and Crime Plan
- 3.6 Powers of the PFCC to provide or commission services
- 3.7 Duties with regard to co-operative working
- 3.8 Duty to publish information for the public
- 3.9 Duty to produce, consult on and publish an Annual Report
- 3.10 Duty to provide information for the Police, Fire and Crime Panel
- 3.11 Arrangements for obtaining the views of the community on policing
- 3.12 Supply of goods and services
- 3.13 Involvement of the PFCC in functions relating to serious violence
- 3.14 Supply of information to the PFCC
- 3.14 Duties when carrying out functions
- 3.15 Appointment of persons not employed by the PFCC
- 3.16 Delegation of functions
- 3.16.1 Schemes of Delegation and Consent
- 3.16.2 Delegation of functions generally
- 3.16.3 Recording the delegation of functions

### Article 4 - Financial matters

- 4.1 Requirement to have a Police Fund
- 4.2 Minimum budget for the PFCC
- 4.3 Financial Year
- 4.4 Grants
- 4.4.1 Grants by local authorities
- 4.4.2 Emergency financial assistance
- 4.4.3 Expenditure grants
- 4.5 Acceptance of gifts or loans

- 4.6 Precepts
- 4.6.1 Regulations
- 4.7 Budget calculations: report on robustness of estimates etc
- 4.8 Local provision of youth services
- 4.9 Capital finance etc and accounts
- 4.10 Financial reports
- 4.11 Making collaborative agreements
  - 4.11.1 Police collaboration agreements
  - 4.11.2 Emergency services collaboration agreements
  - 4.11.3 Duty of the PFCC to keep collaboration agreements under review
- 4.12 Financial and Procurement Regulations
- 4.13 Preventing Fraud and Corruption
- 4.14 Local authority investment schemes

## Article 5 - Conduct

- 5.1 The Nolan and Policing Principles
- 5.2 Code of Conduct
- 5.3 Conflicts of interest
- 5.4 Complaints and conduct matters which relate to the PFCC or Deputy PFCC
- 5.5 Complaints against Police staff and the Chief Constable
  - 5.5.1 Initial handling and recording of complaints
  - 5.5.2 Reference of complaints to the IOPC
  - 5.5.3 Handling of complaints by the PFCC as the appropriate authority
  - 5.5.4 Reviews relating to complaints dealt with other than by investigation
  - 5.5.5 Conduct matters arising in civil proceedings
  - 5.5.6 Recording of conduct matters etc in other cases
  - 5.5.7 Reference of conduct matters to the IOPC
  - 5.5.8 Duty to preserve evidence relating to conduct matters
  - 5.5.9 Death and serious injury (DSI) matters
  - 5.5.10 Procedure where a conduct matter is revealed during investigation of a DSI matter
    - 5.5.11 Power of the IOPC to determine the form of an investigation
    - 5.5.12 Investigations by the PFCC on their own behalf
    - 5.5.13 Investigations directed by the IOPC
    - 5.5.14 Investigations by the IOPC
    - 5.5.15 The IOPC's power to investigate concerns raised by whistle-blowers
    - 5.5.16 Procedure where a conduct matters is revealed during a whistle-blowing investigation
    - 5.5.16 Procedure where a conduct matters is revealed during a whistle-blowing investigation
    - 5.5.17 Procedure where a DSI matter is revealed during a whistle-blowing investigation
    - 5.5.18 Accelerated procedure in special cases
    - 5.5.19 Payment for assistance with investigations
    - 5.5.20 Restrictions on proceedings pending the conclusion of an investigation
    - 5.5.21 Action by the IOPC in response to an investigation report
    - 5.5.22 The IOPC's power to require re-investigation
    - 5.5.23 Action by the PFCC in response to an investigation report



- 5.5.24 The relevant review body
- 5.5.25 Reviews with respect to an investigation
- 5.5.26 Duties with respect to disciplinary proceedings etc
- 5.6 Duty to monitor all complaints

## **Article 6 - Functions of the Essex Police, Fire and Crime Panel**

- 6.1 Functions of the Essex Police, Fire and Crime Panel
- 6.2 Power to require attendance and information
- 6.3 Suspension of the Police, Fire and Crime Commissioner

## **Article 7 – Vacancy in the office of PFCC**

- 7.1 Date of vacancy in the office of PFCC
- 7.2 Resignation of the PFCC
- 7.3 Appointment of an acting commissioner
- 7.4 Vacancy where the acting commissioner acts for the maximum of six months
- 7.5 Disqualification from election as PFCC
- 7.6 Disqualification from election or holding office as PFCC – police grounds
- 7.7 Disqualification from election or holding office as PFCC – other grounds
- 7.8 Disqualification of a person holding office as PFCC
- 7.9 Validity of acts despite any disqualifications
- 7.10 Declaration of acceptance of office of PFCC
- 7.11 The “Appropriate Officer” for the purposes of Article 7

## **Article 8 - Senior Staff and Statutory Appointments**

- 8.1 Chief Executive and Monitoring Officer and Chief Finance Officer
- 8.2 Appointment of other staff
- 8.3 Senior post vacancies
- 8.4 Appointment of Deputy Police, Fire and Crime Commissioner
- 8.5 Deputy PFCC – persons who may not be appointed
- 8.6 Chief Executive
- 8.7 Functions of the Monitoring Officer
- 8.8 Functions of the Section 151 Officer
- 8.9 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer
- 8.10 Ability to appoint deputies
- 8.11 Disqualification and political restriction of officers and staff
- 8.12 Staff – General provisions
- 8.13 Appointment, suspension and removal of the Chief Constable and Senior Police Staff
  - 8.13.1 Appointment of the Chief Constable
  - 8.13.2 Suspension and removal of the Chief Constable
  - 8.13.3 Deputy and Assistant Chief Constables

## **Article 9 – Miscellaneous Provisions**

- 9.1 Remuneration etc of the PFCC
- 9.2 Remuneration etc. of staff
- 9.3 Incidental powers
- 9.4 Protection from personal liability
- 9.5 Government Security Classifications
- 9.6 Powers of the PFCC to obtain particulars of persons interested in land
- 9.7 Enforceability by the PFCC of certain covenants relating to land
- 9.8 Service of notices by the PFCC
- 9.9 Provision of information by the Chief Constable to the PFCC

## **Article 10 – Decision Making**

- 10.1 Responsibility for decision making
- 10.2 Principles of decision making
- 10.3 Written reports and decision records
- 10.4 General Provisions

## **Article 11 - PFCC for Essex Governance Boards**

- 11.1 General
- 11.2 Strategic Board
- 11.3 Joint Audit Committee
- 11.4 Performance and Resources Scrutiny Board
- 11.5 Essex Emergency Services Strategic Governance Board

## **Article 12 – Community Safety Partnerships and Crime and Disorder Strategies**

## **Article 13 – Independent Custody Visitors for places of detention**

## **The Constitution Appendices**

- Appendix 1 - Strategic Board Terms of Reference
- Appendix 2 - Terms of Reference of the Joint Audit Committee
- Appendix 3 - Performance and Resources Scrutiny Board Terms of Reference
- Appendix 4 - Essex Emergency Services Collaboration Strategic Governance Board Terms of Reference

## **The Constitution Schedules**

- Schedule 1 – The Elected Local Policing Bodies (Specified Information) Orders**
- Schedule 2 – Information Sharing Agreement between Essex Police and the PFCC**
- Schedule 3 – Information Sharing Protocol between the PFCC and the Police, Fire and Crime Panel for Essex**
- Schedule 4 – Revised Financial Management Code of Practice For the Police Forces of England and Wales and Fire and Rescue Authorities created under section 4A of the Fire and Rescue Services Act 2004 – July 2018 (Home Office)**
- Schedule 5 – Scheme of Delegation and Scheme of Consent**
- Schedule 6 – Policing Protocol Order 2023**
- Schedule 7 – Code of Conduct**  
**Appendix to Schedule 7: Register of Interests**
- Schedule 8 – The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 [SI 2012/62]**
- Schedule 9 – Appointment, Suspension and Removal of Chief Constables [Schedule 8 PRSRA 2012]**
- Schedule 10 – Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012 [SI 2012/2271]**
- Schedule 11 – The Police and Crime Commissioner Elections (Declaration of Acceptance of Office) Order 2012 [SI 2012/2553]**
- Schedule 12 – Government Security Classifications**
- Schedule 13 – Financial and Procurement Regulations**
- Schedule 14 – Anti-Fraud & Anti-Bribery Commitment**
- Schedule 15 - Policies and Strategies of the Police, Fire and Crime Commissioner**
- Schedule 16 - Decision Report Template**

## **Article 1 – The Constitution**

### **1.1 The Constitution**

- (1) The Constitution of the Police, Fire and Crime Commissioner for Essex comprises these Articles and the supporting Schedules.
- (2) Within this Constitution the use of the term “Commissioner” refers only and exclusively to the Police, Fire and Crime Commissioner (PFCC) in relation to policing functions and does not include any responsibilities or requirements of the post holder in relation to fire and rescue functions. There is a separate constitution for the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority.
- (3) The Commissioner has adopted this Constitution, which sets out how they will work, how decisions are made, and the procedures that are followed to ensure these are efficient and transparent and that the Commissioner is accountable to local people. Some of these procedures are required by law, while others are a matter of choice for the Commissioner.

### **1.2 Purpose of the Constitution**

- (1) The purpose of this Constitution is to set out how the PFCC operates, their functions, how decisions are made and the procedures to be followed to ensure the Commissioner operates in an efficient, transparent and accountable manner.

### **1.3 Maintaining and updating this Constitution**

- (1) The Constitution is divided into 13 Articles, which set out the basic rules governing the Commissioner’s business. More detailed procedures and policies are set out in in the Schedules to the Constitution.
- (2) The Articles of this Constitution may not be suspended.
- (3) The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect, and to ensure that appropriate amendments are recommended as and when necessary for the purpose of updating or improving the Constitution. The Monitoring Officer shall review the Constitution at least, but not limited to, biennially with a view to recommending any such amendments to the Commissioner.
- (4) Changes to the Constitution will only be approved by the Commissioner after consideration of the proposal by the Monitoring Officer.
- (5) Before issuing or varying the Constitution, the Commissioner must:
  - a) Provide the draft or variation to the Police, Fire and Crime Panel.

- b) Have regard to any report or recommendations made by the Panel in relation to the draft plan or variation.
  - c) Give the Panel a response to any such report or recommendations.
  - d) Publish any such response.
- (6) Once the response from the Police, Fire and Crime Panel had been considered, the Commissioner will follow the decision-making process set out in Article 10.(7) The Monitoring Officer will ensure that copies of this Constitution are widely available to the public, including being available on the [Police, Fire and Crime Commissioner for Essex website](#).

#### **1.4 Election**

- (1) The elected local policing body comprises the person elected as Police, Fire and Crime Commissioner on the ordinary day of election.
- (2) In this Article, “the ordinary day of election” in any year means the day which is the ordinary day of election in that year of councillors for counties in England and Districts (see sections 37 and 37A of the Representation of the People Act 1983).

#### **1.5 Term of office**

- (1) The term of office of the person elected as PFCC at an ordinary election:
  - (a) begins with the seventh day after the day of the poll at the election, and
  - (b) ends with the sixth day after the day of the poll at the next ordinary election

subject to any provision of or made under any Act relating to the appointment or election of PCCs / PFCCs or their ceasing to hold office.

- (2) The term of office of a person elected as PFCC at an election to fill a vacancy in the office -
  - (a) begins immediately the person is declared to be elected as the PFCC for Essex, and
  - (b) ends at the time when it would have ended had the person been elected at the most recent ordinary election.
- (3) Where a person becomes PFCC for a resulting police area by virtue of, or of an election required to be held by, a police area alteration order, the person’s term of office as PFCC ends at the time when it would end had the person been elected as PFCC at the previous ordinary election of commissioners in England.
- (4) In this Article –

“police area alteration order” means -

- (a) an order under section 32 of the Police Act 1996 (power to alter police areas by order)
- (b) an order under section 10 of the Local Government and Public Involvement in Health Act 2007 (implementation of Boundary Committee for England review of local government areas) which alters the boundary of any police area in England, and

“resulting police area”, in relation to a police area alteration order, means a police area existing immediately after the order comes into force -

- (a) which is created by the order, or
  - (b) any part of whose boundary results from the order
- (5) An order which makes provision altering any police areas may make provision as to who is to be a PCC / PFCC, including –
- (a) provision for the commissioner for a police area affected by the order to become the commissioner for a police area resulting from the order, and
  - (b) provision for the holding of an election for the commissioner for any police area resulting from the order. This may require the election in question to be held before the alteration of police areas takes effect.

## **1.6 Persons entitled to vote**

- (1) A person is entitled to vote as an elector at an election of the PFCC for Essex if on the date of the poll -
- (a) the person would be entitled to vote as an elector at a local government election in an electoral area wholly or partly comprised in the police area, and
  - (b) the address in respect of which the person is registered in the register of local government electors for that electoral area is within the police area.
- (2) A person is not entitled to vote as an elector more than once in the same police area in any election of the PFCC for Essex.

## **1.7 Voting at elections for the PFCC**

- (1) The commissioner is to be returned under the simple majority system.

## **Article 2 - Citizens' Rights and Responsibilities**

- (1) The Commissioner encourages public engagement. Openness, transparency, effective decision-making and accountability are the core principles adopted by the Commissioner.
- (2) Citizens have the right in accordance with any statutory conditions or restrictions -
  - a) If on the electoral roll, to vote in the election of the individual to be the Commissioner.
  - b) To access information under the relevant legislation, including the Freedom of Information Act 2000, the Data Protection Act 2018 and UK General Data Protection Regulation (UK GDPR).
  - c) To inspect the accounts and to make their views known to the external auditor.
  - d) To review the Forward Plan of the future business of the governance meetings.
  - e) Inspect decisions of the Commissioner and the minutes of the boards, except where they concern a confidential or exempt matter.
  - f) To inspect statutory enforcement notices under the Environment and Safety Information Act 1988.
  - g) To contact the Commissioner about any matters of concern to them.
- (3) Citizens are able to complain to -
  - a) Essex Police regarding the standard of service, actions or lack of action by Essex Police or by its staff when acting in the course of their duties.
  - b) The Commissioner if it is a complaint against the Chief Constable.
  - c) The Independent Office for Police Conduct (IOPC) if it is thought that Essex Police, after following the statutory complaints procedure, has not put the complaint right.
  - d) The Monitoring Officer of the Police, Fire and Crime Panel if it is a complaint against the Commissioner or their Deputy. The Panel will then determine how the complaint will be handled. Further details of this process can be found in Article 5.4.
- (4) Meetings of the PFCC's formal governance boards are held in private, however the papers may be viewed by members of the public on the PFCC's website or in person at the PFCC's offices, except where they concern a confidential or exempt matter or are marked 'Official Sensitive' or above.

## **Article 3 - The PFCC: Powers, Functions and Duties**

### **3.1 Role of the Police, Fire and Crime Commissioner**

- (1) Public accountability for the delivery and performance of the Essex Police force is placed into the hands of the PFCC on behalf of the electorate. The PFCC has a statutory duty and electoral mandate to hold Essex Police to account on behalf of the public.
- (2) The PFCC must not fetter the operational independence of the Essex Police force and the Chief Constable who leads it. Where differences occur between the PFCC and Chief Constable they should be resolved where possible locally between the PFCC and the Chief Constable. Professional advice may be offered by Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS).
- (3) The PFCC is established in law as a corporation sole, so is enabled by law to employ staff and hold funds as described in the sections that follow.
- (4) The PFCC, as the elected local policing body, will exercise all their powers and duties in accordance with the law and this Constitution.

### **3.2 Powers, functions and duties**

- (1) The PFCC must:
  - (a) secure the maintenance of the police force for Essex, and
  - (b) secure that the police force is efficient and effectiveand must hold the Chief Constable for Essex to account for the exercise of -
  - (a) the functions of the Chief Constable, and
  - (b) the functions of persons under the direction and control of the Chief Constable.
- (2) The legal powers and duties of the PFCC are set out in paragraph 17 of the Policing Protocol Order 2023 (attached as Schedule 6 to this Constitution).
- (3) The PFCC also has wider responsibilities, namely –
  - (a) specific responsibility for the delivery of community safety and crime reduction;
  - (b) the ability to bring together Community Safety Partnerships (CSPs) at the force level;
  - (c) the power to provide or arrange the provision of -



- (i) services that, in the opinion of the PFCC, will secure, or contribute to securing, crime and disorder reduction in the Essex Police force area;
  - (ii) services that are intended by the PFCC to help victims or witnesses of, or other persons affected by, offences and anti-social behaviour;
  - (iii) services of a description specified in an order made by the Secretary of State;
- (d) a duty to ensure that all collaboration agreements deliver better value for money or enhance the effectiveness of policing capabilities and resilience, and
  - (e) a wider responsibility for the enhancement of the delivery of criminal justice in the Essex area.
- (4) The operational independence of the police is a fundamental principle of British policing. At all times, the Chief Constable, their constables and staff remain operationally independent in the service of Essex communities, and the PFCC must not fetter the operational independence of the police force and the Chief Constable who leads it. The PFCC and Chief Constable must work together to safeguard the principle of operational independence, while ensuring that the PFCC is not fettered in fulfilling their statutory role.
- (5) The relationship between the PFCC and the Chief Constable is defined by the PFCC's democratic mandate to hold the Chief Constable to account as well as by primary legislation and common law which provides clarity on the legal principles that underpin operational independence and the Office of Constable. The Chief Constable is responsible for maintaining the King's Peace and has control over the force's officers and staff. The Chief Constable holds office under the Crown but is appointed by the PFCC. The Chief Constable is accountable to the law for the exercise of police powers, and to the PFCC for the delivery of efficient and effective policing, management of resources and expenditure by the police force. The Chief Constable is responsible to the public and accountable to the PFCC for:
- (a) leading the force in a way that is consistent with the Code of Ethics and Oath of Attestation made by all constables on appointment and ensuring that it acts with impartiality (including political impartiality);
  - (b) appointing the force's officers and staff (after consultation with the PFCC, in the case of officers above the rank of Chief Superintendent and police staff equivalents);
  - (c) supporting the PFCC in the delivery of the strategy and objectives set out in the Police and Crime Plan;
  - (d) assisting the PFCC in planning the force's budget;

- (e) providing the PFCC with access to information, officers and staff as required;
  - (f) having regard to the Strategic Policing Requirement when exercising and planning their policing functions in respect of their force's national and international policing responsibilities;
  - (g) notifying and briefing the PFCC of any matter or investigation on which the PFCC may need to provide public assurance either alone or in company with the Chief Constable (all PCCs will be designated as Crown Servants under the Official Secrets Act 1989, making them subject to the same duties in relation to sensitive material as Government Ministers);
  - (h) being the operational voice of policing in the force area and regularly explaining to the public the operational actions of officers and staff under their command;
  - (i) entering into collaboration agreements with other Chief Constables, other policing bodies and partners that improve the efficiency or effectiveness of policing, and with the agreement of the PFCC;
  - (j) remaining politically independent of the PFCC;
  - (k) managing all complaints against the force, its officers and staff, except in relation to the Chief Constable, and ensuring that the PFCC is kept informed in such a way as to enable the PFCC to discharge their statutory obligations in relation to complaints in a regular, meaningful and timely fashion. Serious complaints and conduct matters must be passed to the Independent Office for Police Conduct (IOPC) in line with legislation;
  - (l) exercising the power of direction and control in such a way as is reasonable to enable their PFCC to have access to all necessary information and staff within the force;
  - (m) having day to day responsibility for financial management of the force within the framework of the agreed budget allocation and levels of authorisation issued by the PFCC within the local scheme of governance. Such scheme should facilitate the PFCC's strategic direction of the force but should not fetter the operational independence of the Chief Constable and should enable the Chief Constable to deliver their role efficiently and effectively.
- (6) The PFCC must, in particular, hold the Chief Constable to account for:
- (a) the exercise of the duty under section 8(2) of the Police Reform and Social Responsibility Act 2011 (duty to have regard to Police and Crime Plan);
  - (b) the exercise of the duty under section 37A (2) of the Police Act 1996 (duty to have regard to strategic policing requirement). The PFCCs must hold the Chief Constables to account for having, or having access to, the capabilities that have been identified in the SPF as critical to the planning of an effective and proportionate

response to the national threats. The expectation is that both the PFCC and the Chief Constable should follow the SPR unless they are satisfied that, in the particular circumstances, there are good reasons not to;

- (c) the exercise of the duty under section 39A (7) of the Police Act 1996 (duty to have regard to codes of practice issued by Secretary of State);
  - (d) the exercise of the Chief Constable's functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints;
  - (e) the effectiveness and efficiency of the Chief Constable's arrangements for co-operating with other persons in the exercise of the Chief Constable's functions (whether under section 22A of the Police Act 1996 or otherwise);
  - (f) the effectiveness and efficiency of the Chief Constable's arrangements under section 34 of the Police Reform and Social Responsibility Act 2011 (engagement with local people);
  - (g) the extent to which the Chief Constable has complied with section 35 of the Police Reform and Social Responsibility Act 2011 (value for money);
  - (h) the exercise of duties relating to equality and diversity imposed on the Chief Constable by any enactment, and
  - (i) the exercise of duties in relation to the safeguarding of children and the promotion of child welfare imposed on the Chief Constable by sections 10 and 11 of the Children Act 2004.
- (7) Section 2 of the Police Reform and Social Responsibility Act 2011 provides that a police force and its civilian staff are under the direction and control of the Chief Constable of the force. Examples of matters under the direction and control of the Chief Constable are cited in paragraph 35 of the Policing Protocol Order 2023 (attached as Schedule 6 to this Constitution). The Chief Constable is expected to ensure that the PFCC is informed of their decisions and operational activity in a timely fashion so that the PFCC can hold the Chief Constable to account for the totality of policing within their force area, including the operational delivery of the police service.
- (8) In order to enable the PFCC to exercise the functions of the office effectively, access will be needed by the PFCC to information, officers and staff within the Essex Police force area. Such access to any information is governed by the Information Sharing Agreement attached as Schedule 2 to this Constitution and must not be unreasonably withheld or obstructed by the Chief Constable and / or fetter the Chief Constable's direction and control of the force.

- (9) The Secretary of State and the PFCC may enter into agreements with respect to the level of performance to be achieved by the Essex Police force in respect of any of its national or international functions.

### **3.3 Duty to Issue a Police and Crime Plan**

- (1) The PFCC must issue a Police and Crime Plan within the financial year in which each ordinary election is held. For these purposes, 'financial year' means the financial year of the Police, Fire and Crime Commissioner, as defined in subsection 4.3(1) below.
- (2) The PFCC must comply with the duty to issue a Police and Crime Plan as soon as practicable after taking office.
- (3) The PFCC may, at any time, issue a Police and Crime Plan.
- (4) The PFCC may vary a Police and Crime Plan.
- (5) In issuing or varying a Police and Crime Plan, the PFCC must have regard to the strategic policing requirement (SPR) issued by the Secretary of State under section 37A of the Police Act 1996. This must include:
  - (a) highlighting the PFCC's duty to have regard to the SPR in their Police and Crime Plans;
  - (b) Explaining what the SPR is in the Police and Crime Plans, and
  - (c) Explaining within the Police and Crime Plan how they have had regard to the SPR in setting the strategic direction and objectives for the force.
- (6) Before issuing or varying a Police and Crime Plan, the PFCC must –
  - (a) prepare a draft of the plan or variation,
  - (b) consult the Chief Constable in preparing the draft plan or variation,
  - (c) send the draft plan or variation to the Police, Fire and Crime Panel,
  - (d) have regard to any report or recommendations made by the Panel in relation to the draft plan or variation,
  - (e) give the Panel a response to any such report or recommendations, and
  - (f) publish any such response.
- (7) The PFCC must ensure that the Police, Fire and Crime Panel has a reasonable amount of time to review the draft plan or variation and to make a report or recommendations to the PFCC.
- (8) The PFCC must consult again with the Chief Constable before issuing or varying a Police and Crime Plan if, and to the extent that, the Plan or

variation is different from the initial draft on which the Chief Constable was consulted.

- (9) The PFCC must:
- (a) keep the Police and Crime Plan under review, and
  - (b) in particular, review the Police and Crime Plan in the light of:
    - (i) any report or recommendations made to the PFCC by the Police, Fire and Crime Panel on the PFCC's Annual Report and
    - (ii) any changes in the strategic policing requirement issued by the Secretary of State under section 37A of the Police Act 1996
- and exercise the powers to issue or vary the Police and Crime Plan accordingly.
- (10) When the PFCC issues or varies a Police and Crime Plan they must:
- (a) send a copy of the issued plan, or the variation, to the Chief Constable and to each of the other persons and bodies that are, for the purposes of section 5 of the Crime and Disorder Act 1998, responsible authorities in relation to local government areas that are wholly or partly within the relevant police area, and
  - (b) publish a copy of the issued plan, or the variation.
- (11) The duty under Article 3.3 (10) to send or publish a copy of the variation may instead be satisfied by sending or publishing a copy of the plan as varied.
- (12) It is for the PFCC to determine the manner in which:
- (a) a response to a report or recommendations is to be published, and
  - (b) a copy of the plan or variation is to be published.

### **3.4 Purpose of the Police and Crime Plan**

- (1) A Police and Crime Plan is a plan which sets out, in relation to the planning period, the following matters:
- (a) the PFCC's police and crime objectives;
  - (b) the policing of the Essex police area which the Chief Constable is to provide;
  - (c) the financial and other resources which the PFCC is to provide to the Chief Constable to enable him / her to exercise the functions of Chief Constable;

- (d) the means by which the Chief Constable will report to the PFCC on their provision of policing;
  - (e) the means by which the Chief Constable's performance in providing policing will be measured;
  - (f) the services which are to be provided by virtue of section 143 of the Anti-Social Behaviour, Crime and Policing Act 2014, and
  - (g) any grants which the elected PFCC is to make and the conditions (if any) subject to which any such grants are to be made.
- (2) The PFCC's police and crime objectives are its objectives for:
- (a) the policing of the Essex area,
  - (b) crime and disorder reduction in the Essex area, and
  - (c) the discharge by the Essex police force of its national or international functions.
- (3) A Police and Crime Plan has effect from the start of the planning period until -
- (a) the end of that planning period, or
  - (b) if another Police and Crime Plan is issued in relation to the PFCC's area before the end of that planning period, the day when that other plan first has effect.
- (4) The PFCC must have regard to any guidance by the Secretary of State about the matters to be dealt with in police and crime plans.
- (5) In this Article, "planning period", in relation to a Police and Crime Plan, is the period that:
- (a) begins with -
    - (i) the day on which the plan is issued, or
    - (ii) if a qualifying day is specified in the plan as the day on which the plan is to begin to have effect, that day, and
  - (b) ends with the last day of the financial year in which the next ordinary election is expected to take place after the plan is issued;

"qualifying day" means a day which meets the following conditions (so far as applicable) –

- (a) the day must fall after the day on which the plan is issued;
- (b) the day must not fall after the day on which the next ordinary election is expected to take place after the plan is issued;
- (c) in the case of a plan issued in accordance with the duty in subsection 3.3(1), the day must be, or fall before, the first day of the financial year following the financial year in which the duty must be complied with.

### **3.5 Duty to have regard to the Police and Crime Plan**

- (1) A PFCC must, in exercising their functions, have regard to their Police and Crime Plan.
- (2) The Chief Constable for Essex must, in exercising the functions of chief constable, have regard to the Police and Crime Plan issued by the PFCC for Essex.
- (3) The PFCC and the Chief Constable must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.

### **3.6 Powers of the PFCC to provide or commission services**

- (1) The PFCC may provide or arrange for the provision of –
  - (a) services that, in the opinion of the PFCC, will secure, or contribute to securing, crime and disorder reduction in the Essex Police force area;
  - (b) services that are intended by the PFCC to help victims or witnesses of, or other persons affected by, offences and anti-social behaviour;
  - (c) services of a description specified in an order made by the Secretary of State.
- (2) An order made under subsection (1)(c) may make different provision for different areas.
- (3) The PFCC may make grants in connection with their arrangement for the provision of services under this Article. A grant may be subject to any conditions (including conditions as to repayment) that the PFCC thinks appropriate.
- (4) In this Article –

“anti-social behaviour” means behaviour of a person that causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as that person;

“crime and disorder reduction” means reduction in levels of –

  - (a) crime and disorder (including anti-social behaviour and other behaviours adversely affecting the local environment),
  - (b) the misuse of drugs, alcohol and other substances, and
  - (c) re-offending.

### **3.7 Duties with regard to co-operative working**

- (1) The PFCC must, in exercising their functions, have regard to the relevant priorities of each responsible authority.
- (2) The PFCC, in exercising their functions, and a responsible authority, in exercising its functions conferred by or under section 6 of the Crime and Disorder Act 1998 in relation to Essex, must act in co-operation with each other.
- (3) The PFCC, and the criminal justice bodies which exercise functions as criminal justice bodies in Essex, must make arrangements (so far as it is appropriate to do so) for the exercise of functions so as to provide an efficient and effective criminal justice system for Essex.
- (4) A 'responsible authority' has the same meaning as in section 5 of the Crime and Disorder Act 1998.
- (5) In this Article "criminal justice body" means:
  - (a) the Chief Constable for the Essex police area;
  - (b) the Crown Prosecution Service;
  - (c) the Lord Chancellor, in exercising functions under section 1 of the Courts Act 2003 (duty to ensure efficient and effective courts service);
  - (d) a Minister of the Crown, in exercising functions in relation to prisons (within the meaning of the Prison Act 1952);
  - (e) a youth offending team established under section 39 of the Crime and Disorder Act 1998;
  - (f) a person with whom the Secretary of State has made contractual or other arrangements, under section 3(2) of the Offender Management Act 2007, for the making of probation provision, and
  - (g) the Secretary of State, in making probation provision in accordance with arrangements made by the Secretary of State under section 3(5) of the Offender Management Act 2007

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975.

### **3.8 Duty to publish information for the public**

- (1) The PFCC must publish information as specified by the Secretary of State. (see Schedule 1). If the time or manner of the publication of that information is specified, the PFCC must publish it at that time or in that manner.
- (2) The PFCC must publish the information which it considers to be necessary to enable the persons who live in Essex to assess –



- (a) the performance of the PFCC in exercising their functions, and
  - (b) the performance of the Chief Constable in exercising their functions.
- (3) The information necessary to enable persons who live in Essex to assess the above matters by reference to a particular time, or a particular period, must be published by the PFCC as soon as practicable after that time or the end of that period.
- (4) The Information Sharing Agreement (ISA) with Essex Police sets out the arrangements for sharing information between the PFCC and Essex Police (Schedule 2).
- (5) The PFCC and their nominated Data Protection Officer have undertaken to deliver compliance with the UK General Data Protection Regulation (UK GDPR) from 25 May 2018.

### **3.9 Duty to produce, consult on and publish an Annual Report**

- (1) The PFCC must produce an annual report on:
- (a) the exercise of the PFCC's functions in each financial year, and
  - (b) the progress which has been made in the financial year in meeting the police and crime objectives in the police and crime plan.
- (2) The PFCC will provide an annual assurance statement within their annual reports on how they have had regard to the SPR and how it has influenced their setting of the strategic direction and objectives for the Essex Police force.
- (3) As soon as practicable after producing an annual report, the PFCC must send the report to the Police, Fire and Crime Panel.
- (4) The PFCC must attend before the Police, Fire and Crime Panel at a public meeting, arranged by the Panel as soon as practicable after it receives the report, to present the report to the Panel and answer the Panel's questions on the report.
- (5) The PFCC must:
- (a) give the Panel a response to any report or recommendations on the annual report by the Panel, and
  - (b) publish any such response.
- (6) It is for the Police, Fire and Crime Panel to determine the manner in which a response to a report or recommendations is to be published in accordance with subsection 3.9 (4) (b).
- (7) The PFCC must arrange for each annual report to be published. It is for the PFCC to determine the manner in which an annual report is to be published.

### **3.10 Duty to provide information for the Police, Fire and Crime Panel**

- (1) The PFCC must provide the Police, Fire and Crime Panel with any information which the Panel may reasonably require in order to carry out its functions.
- (2) But the PFCC is not required to provide information if disclosure of the information:
  - (a) would, in the view of the Chief Constable, be against the interests of national security,
  - (b) might, in the view of the Chief Constable, jeopardise the safety of any person,
  - (c) might, in the view of the Chief Constable, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice, or
  - (d) is prohibited by or under any enactment, not limited to but inclusive of the UK GDPR
- (3) The PFCC may provide the Police, Fire and Crime Panel with any other information which the PFCC thinks appropriate.
- (4) The Information Sharing Protocol between the PFCC and the Police, Fire and Crime Panel for Essex (Schedule 3) sets out the arrangements for sharing information.

### **3.11 Arrangements for obtaining the views of the community on policing**

- (1) Arrangements shall be made by the PFCC, after consulting with the Chief Constable, for obtaining:
  - (a) the views of people in the Essex Police area about matters concerning the policing of the area, and
  - (b) their co-operation with the police in preventing crime and anti-social behaviour in that areaand for obtaining the views of victims of crime in that area about matters concerning the policing of the area.
- (2) Those arrangements must include arrangements for obtaining, before a Police and Crime Plan is issued, the views of the people in the police area, and the views of the victims of crime in that area, on that plan.
- (3) Those arrangements must include arrangements for obtaining, before the first precept for a financial year is issued by the PFCC, the views of the people in that police area and the relevant ratepayers' representatives on the proposals of the PFCC for expenditure (including capital expenditure) in that financial year.
- (4) "relevant ratepayers' representatives" means the persons or bodies in the police area who appear to the PFCC to be representative of persons subject

to non-domestic rates under sections 43 and 45 of the Local Government Finance Act 1988 as regards hereditaments situated in that area.

- (5) In determining which persons or bodies are relevant ratepayers' representatives, the PFCC must have regard to any guidance given by the Secretary of State.

### **3.12 Supply of goods and services**

- (1) Subsections (1), (2) and (3) of Section 1 of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities) apply to the PFCC as they apply to a local authority.
- (2) Subject to the provisions of section 1 of the 1970 Act, a local authority and any public body (which includes the PFCC) may enter into an agreement for all or any of the following purposes,
  - (a) the supply by the authority to the PFCC of any goods or materials;
  - (b) the provision by the authority for the PFCC of any administrative, professional or technical services;
  - (c) the use by the PFCC of any vehicle, plant or apparatus belonging to the authority and the placing at the disposal of the PFCC of the services of any person employed in connection with the vehicle or other property;
  - (d) the carrying out by the authority of works of maintenance in connection with land or buildings for the maintenance of which the PFCC is responsible
- (3) The PFCC may not enter into an agreement with another PCC / PFCC, or with the Common Council of the City of London in its capacity as a police authority, under section 1 of the 1970 Act in respect of a matter which could be the subject of force collaboration provision in a collaboration agreement under section 22A of the Police Act 1996.

### **3.13 Involvement of the PFCC in functions relating to serious violence**

- (1) The PFCC may assist any of the following specified authorities in the exercise of its functions under or in accordance with sections 8 and 9 of the Police, Crime, Sentencing and Courts Act 2022, in relation to an area which coincides with or falls within the Essex Police area:
  - A district council
  - The County Council
  - A provider of probation services within the meaning given by section 3(6) of the Offender Management Act 2007
  - A youth offending team established under section 39 of the Crime and Disorder Act 1998
  - An integrated care board established under section 14Z25 of the National Health Service Act 2006
  - The Chief Constable

- The Police, Fire and Crime Commissioner Fire and Rescue Authority
- (2) The PFCC may monitor the exercise by the authorities listed in subsection (1) of their functions under or in accordance with sections 8 and 9 of that Act, in relation to an area which coincides with or falls within the Essex Police area.
  - (3) The PFCC may report their findings under subsection (2) to the Secretary of State.
  - (4) The Secretary of State may by regulations make provisions conferring functions on the PFCC for the purposes of subsection (1).
  - (5) If the PFCC acts under subsection (1) or (2), or under regulations under subsection (4), in relation to the exercise by a specified authority of its functions under or in accordance with sections 8 or 9 of the Police, Crime, Sentencing and Courts Act 2022, the authority must co-operate with the PFCC.
  - (6) The PFCC must have regard to guidance issued by the Secretary of State in exercising any function conferred by or by virtue of this subsection, or in exercising any function in accordance with this subsection.

### **3.14 Supply of information to the PFCC**

- (1) The PFCC may, for the purposes of enabling or assisting them to exercise their functions under subsection 3.13, request any of the following to supply it with such information as may be specified in the request:
  - (a) a specified authority for the Essex Police area
  - (b) an educational authority for the Essex Police area
  - (c) a prison authority for the Essex Police area
  - (d) a youth custody authority for the Essex Police area
- (2) Information requested under subsection (1) must be information that is held by the authority to whom the request is made and that relates to –
  - (a) the authority to whom the request was made,
  - (b) a function of the authority to whom the request was made, or
  - (c) an authority in respect of which a function is exercisable by the authority requested to supply the information.
- (3) Information supplied to the PFCC under this subsection may be used by the PFCC only for the purpose of enabling or assisting them to exercise their functions under subsection 3.13.

- (4) The PFCC must have regard to guidance issued by the Secretary of State in exercising any function conferred by or by virtue of this subsection, or in exercising any function in accordance with this subsection.

### **3.14 Duties when carrying out functions**

- (1) Without prejudice to any other obligation imposed on it, it shall be the duty of the Police, Fire and Crime Commissioner (the PFCC) to exercise their various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent,
  - (a) crime and disorder in Essex (including anti-social and other behaviour adversely affecting the local environment); and
  - (b) the misuse of drugs, alcohol and other substances in Essex, and
  - (c) re-offending in Essex
- (2) In carrying out functions, the PFCC must have regard to the views of people in Essex.
- (3) The PFCC must have regard when discharging its functions to the Policing Protocol issued by the Home Secretary.
- (4) In carrying out functions in a particular financial year, the PFCC must have regard to any report or recommendations made by the Police, Fire and Crime Panel on the Annual Report for the previous financial year.
- (5) However, subsection 3.14 (4) does not affect any exercise of the functions of the PFCC in any part of a particular financial year that falls -
  - (a) before the PFCC has received a report or recommendations from the Police, Fire and Crime Panel on the Annual Report for the previous financial year, or
  - (b) during the period after receipt of a report or recommendations from the Police, Fire and Crime Panel when the PFCC is considering the report or recommendations.
- (6) In carrying out functions, the PFCC must have regard to any financial code of practice issued from time to time by the Secretary of State relating to the proper administration by the PFCC of its financial affairs. The working financial relationship between the PFCC and the Chief Constable is set out in the Financial Management Code of Practice issued by the Home Secretary under statute and attached at Schedule 4. The Secretary of State may from time to time revise the whole or any part of any financial code of practice.
- (7) The PFCC must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

- (8) The reference to inequalities in subsection (7) does not include any inequalities experienced by a person as a result of being a person subject to immigration control within the meaning given by section 115 (9) of the Immigration and Asylum Act 1999.
- (9) The PFCC is designated as a Crown Servant under the Official Secrets Act 1989, making them subject to the same duties in relation to sensitive materials as Government Ministers.
- (10) This Article is in addition to the duty of the PFCC under subsection 3.5 to have regard to the Police and Crime Plan.

### **3.15 Appointment of persons not employed by the PFCC**

- (1) This Article applies where a PFCC is required or authorised by any Act:
  - (a) to appoint a person to a specified post, or
  - (b) to designate a person as having specified duties or responsibilities.
- (2) The PFCC may appoint or designate a person whether or not the person is already a member of staff of the PFCC.
- (3) Subsection 3.15 (2) has effect in spite of any provision to the contrary in any Act that requires or authorises the PFCC to appoint or designate a person mentioned in subsection 3.15 (1).

### **3.16 Delegation of functions**

#### **3.16.1 Schemes of Delegation and Consent**

- (1) The Schemes of Delegation and Consent (Schedule 5) detail the key roles of the PFCC and those functions which they delegate to the Chief Executive and Monitoring Officer, the Chief Finance Officer, Strategic Heads, Senior Information Risk Owner (SIRO), Finance Manager, Chief Constable and, if appointed, the Deputy PFCC.

#### **3.16.2 Delegation of functions generally**

- (1) The PFCC may appoint a person as the Deputy Police, Fire and Crime Commissioner ('Deputy PFCC') for Essex and arrange for the Deputy PFCC to exercise any function of the PFCC.
- (2) The PFCC may also arrange for any person who is not the Deputy PFCC to exercise any function of the Commissioner, whether or not there is a Deputy PFCC.
- (3) But the PFCC may not -
  - (a) appoint a person listed in subsection 3.16.2 (6) as the Deputy PFCC;
  - (b) arrange for the Deputy PFCC or any other person to exercise a function that the PFCC has under or by virtue of Part 2 of the Police Reform Act 2002 (Complaints and Misconduct) (see instead section 23 (2) of that Act and regulations made under that provision);

- (c) arrange for the Deputy PFCC to exercise a function listed in subsection 3.16.2 (7) (a), (e) or (f);
  - (d) arrange, under subsection 3.16.2 (2), for any person listed in subsection 3.16.2 (6) to exercise any function, or
  - (e) arrange, under subsection 3.16.2 (2), for any person to exercise a function listed in subsection 3.16.2 (7).
- (4) A Deputy PFCC may arrange for any other person to exercise any function of the PFCC which is, in accordance with subsection 3.16.2 (1), exercisable by the Deputy PFCC.
- (5) But the Deputy PFCC may not arrange for a person to exercise a function if:
- (a) the person is listed in subsection 3.16.2 (6) or,
  - (b) the function is listed in subsection 3.16.2 (7).
- (6) The persons referred to in subsections 3.16.2 (3) (a) and (d) and (5) are:
- (a) a constable (whether or not in England and Wales);
  - (b) a Police and Crime Commissioner or a Police, Fire and Crime Commissioner;
  - (c) the Mayor's Office for Policing and Crime;
  - (d) the Deputy Mayor for Policing and Crime appointed by the Mayor's Office for Policing and Crime;
  - (e) the Mayor of London;
  - (f) the Common Council of the City of London;
  - (g) any other person or body which maintains a police force;
  - (h) a member of the staff of a person falling within any of paragraphs (a) to (g).
- (7) The functions referred to in subsection 3.16.2 (3) (e) are:
- (a) issuing the Police and Crime Plan (see section 5 Police Reform and Social Responsibility Act 2011 (the 'Act'));
  - (b) determining police and crime objectives (see section 7 of the Act);
  - (c) attendance at a meeting of the Police, Fire and Crime Panel in compliance with a requirement by the panel to do so (see section 29 of the Act);
  - (d) preparing the Annual Report to the Police, Fire and Crime Panel (see section 12 of the Act);
  - (e) appointing the Chief Constable, suspending the Chief Constable, or calling upon the Chief Constable to retire or resign (see section 38 of the Act);
  - (f) calculating a budget requirement (see section 43 of the Local Government Finance Act 1992).

- (8) If a function of the PFCC is exercisable by any other person in accordance with this Article then any property or rights vested in the PFCC may be dealt with by the other person in exercising the function, as if vested in that person.
- (9) The Deputy PFCC is a member of the PFCC's staff.

### **3.16.3 Recording the delegation of functions**

- (1) The PFCC shall provide the Monitoring Officer with a written report updating immediately the arrangements under the Scheme of Delegation for the discharge of any of the PFCC's functions if the PFCC makes any amendment to those arrangements.
- (2) The report of the PFCC provided to the Monitoring Officer shall contain the following information -
  - (a) The nature and extent of any authority delegated to the Deputy PFCC or any other person to exercise any function of the PFCC.
  - (b) The nature and extent of any authority delegated by the Deputy PFCC to any other person to exercise any function of the Deputy PFCC
  - (c) The nature and extent of any delegated authority provided under any joint arrangements
  - (d) The nature and extent of any delegated authority provided to a member of the PFCC's staff, including any conditions attached and the title of the post concerned.
- (3) Where any officer with delegated powers authorises another officer to exercise their powers, either as a general competence or in a particular case, such authorisation such be granted in writing and name the officer concerned.

## **Article 4 - Financial Matters**

### **4.1 Requirement to have a Police Fund**

- (1) The PFCC is the recipient of all funding (including the government grant and precept as well as other sources of income) related to policing and crime reduction and all funding for the Essex Police force must come via the PFCC.
- (2) The PFCC must keep a fund to be known as the Police Fund and is ultimately accountable to the public for the management of the Police Fund.
- (3) All of a PFCC's receipts relating to policing must be paid into the Police Fund.
- (4) All of a PFCC's expenditure relating to policing must be paid out of the Police Fund.
- (5) The following amounts must be paid out of the Police Fund kept by the PFCC:



- (a) any damages or costs awarded against the Chief Constable in any proceedings brought against the Chief Constable in respect of the acts or omissions of a member of the Essex police force's civilian staff;
  - (b) any costs incurred by the Chief Constable in any such proceedings so far as not recovered by the Chief Constable in the proceedings; and
  - (c) any sum required in connection with the settlement of any claim made against the Chief Constable in respect of acts or omissions of a member of the Essex police force's civilian staff, if the settlement is approved by the PFCC.
- (6) The PFCC may, in such cases and to such extent as appear to the PFCC to be appropriate, pay out of the Police Fund kept by the PFCC:
- (a) any damages or costs awarded against a person to whom this subsection applies in proceedings for any unlawful conduct of that person;
  - (b) any costs incurred and not recovered by such a person in such proceedings; and
  - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (7) Subsection 4.1 (6) applies to a person who is –
- (a) a member of the Essex Police force maintained by the PFCC;
  - (b) a constable required for the time being to serve with the Essex Police force by virtue of section 24 or 98 of the Police Act 1996 or section 23 of the Police Act 1997; or
  - (c) a special constable appointed for the Essex Police area.
- (8) The PFCC must keep accounts of payments made into or out of the Police Fund.
- (9) Subsection 4.1 is subject to any regulations under the Police Pensions Act 1976.
- (10) The PFCC is responsible for the allocation of the money in the Police Fund which shall be allocated by the PFCC in consultation with the Chief Constable and may be allocated on terms which require its repayment if the PFCC is not satisfied that it has been spent or is being spent in accordance with any directions or conditions to which the allocation is subject.
- (11) Any conditions or directions to which the allocation is subject shall be contained in a letter from the PFCC which may be written at any time after the setting of the precept.
- (12) If the PFCC requires any money to be repaid to it on the basis that they are not satisfied that it has been spent or is being spent in accordance with any directions or conditions to which the allocation is subject, they shall write a letter to the Chief Constable informing him / her of their provisional decision and the reasons for it and inviting any comments within 21 days of the date of the letter. If the Chief Constable replies within the period of 21 days, the

PFCC shall take into account any comments made by the Chief Constable before making a final decision.

#### **4.2 Minimum budget for the PFCC**

- (1) The power of the Secretary of State to give directions to the PFCC shall include power to direct the PFCC that the amount of the PFCC's budget requirement for any financial year shall not be less than the amount specified in the direction.
- (1A) But the Secretary of State may not give direction to the PFCC by virtue of subsection 4.2(1) unless the Secretary of State is satisfied that it is necessary to give the direction in order to prevent the safety of the people of Essex from being put at risk.
- (2) The power exercisable by virtue of subsection 4.2(1), and any direction given under that power, are subject to any limitation imposed under the Local Government Finance Act 1992.
- (3) A direction shall not be given by virtue of subsection 4.2(1) in relation to a financial year at any time after the end of the preceding December.
- (4) Where the Secretary of State gives a direction to the PFCC under subsection 4.2(1), any precept issued or calculation made by the PFCC under Part I of the Local Government Finance Act 1992 which is inconsistent with the direction shall be void.

#### **4.3 Financial Year**

- (1) The PFCC's financial year is the period of 12 months ending with 31 March.

#### **4.4 Grants**

- (1) The Secretary of State shall for each financial year make grants to the PFCC for the purposes of their functions.
- (2) For each financial year the Secretary of State shall with the approval of the Treasury determine –
  - (a) the aggregate amount of grants to be made, and
  - (b) the amount of grant to be made to each grant recipient, and any determination may be varied by further determinations.
- (3) The Secretary of State may make grants in respect of capital expenditure incurred (or to be incurred) by the PFCC. Such grants may be made either unconditionally or subject to conditions.
- (4) The Secretary of State may make grants in respect of expenditure incurred (or to be incurred) for police purposes by the PFCC in connection with safeguarding national security. Such grants may be made either unconditionally or subject to conditions.

- (5) A grant to the PFCC shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State with the approval of the Treasury determines.
- (6) When in consequence of a further determination the amount of the PFCC's grant is less than the amount already paid to it for the year concerned, a sum equal to the difference shall be paid by the PFCC to the Secretary of State on such day as they may specify, but no sum shall be payable by the PFCC unless the report setting out the further determination has been approved by resolution of the House of Commons.

#### **4.4.1 Grants by local authorities**

- (1) The council of a county, district, county borough, parish, town or community in the Essex police area may make grants to the PFCC and such grants may be made unconditionally or, with the agreement of the Chief Constable for Essex, subject to conditions.

#### **4.4.2 Emergency financial assistance**

- (1) In any case where -
  - (a) an emergency or disaster occurs involving destruction of or danger to life or property, and
  - (b) as a result, the PFCC incurs expenditure on, or in connection with, the taking of immediate action (whether by the carrying out of works or otherwise) to safeguard life or property, or to prevent suffering or severe inconvenience, in its area or among its inhabitants,

the Secretary of State may establish a scheme under section 155 of the Local Government and Housing Act 1989 for the giving of financial assistance in respect of that expenditure.

- (2) Financial assistance given pursuant to such a scheme shall take the form of grants paid by the Secretary of State with the consent of the Treasury and, subject to that, the terms and conditions of such a scheme shall be such as the Secretary of State considers appropriate to the circumstances of the particular emergency or disaster concerned.
- (3) Without prejudice to the generality of subsection 4.4.2(2), a scheme may -
  - (a) make the payment of grants conditional upon the making of claims of a description specified in the scheme;
  - (b) make provision with respect to the expenditure qualifying for grant and the rates and amounts of grants;
  - (c) make provision in certain specified circumstances for the repayment of any grant, in whole or in part, and
  - (d) make different provisions for different grant recipients and for different areas.

- (4) Expenditure incurred by the PFCC may include expenditure incurred in defraying, or contributing towards defraying, expenditure incurred by a parish, town or community council.

#### **4.4.3 Expenditure grants**

- (1) A Minister of the Crown may, with the consent of the Treasury, pay a grant to the PFCC towards expenditure incurred or to be incurred by it.
- (2) The amount of such a grant and the manner of its payment are such as the person paying it may determine.
- (3) Such grants may be paid on such conditions as the person paying it may determine. Conditions may, in particular, include –
  - (a) provision as to the use of the grant, and
  - (b) provision as to the circumstances in which the whole or part of the grant must be repaid.

#### **4.5 Acceptance of gifts or loans**

- (1) A PFCC may, in connection with the discharge of any of their functions, accept gifts of money, and gifts or loans of other property, on such terms as appear to the PFCC to be appropriate.
- (2) The terms on which gifts or loans are accepted under subsection 4.5(1) may include terms providing for the commercial sponsorship of any activity of the PFCC or of the Essex Police force save that the PFCC shall consult with the Chief Constable before accepting sponsorship of any activity of the Essex Police force.
- (3) The PFCC and the Deputy PFCC will publish all disclosable interests, expenses and offers of gifts and hospitality, whether they accept these or not.

#### **4.6 Precepts**

- (1) The PFCC is a major precepting authority for the purposes of Part 1 of the Local Government Finance Act 1992.
- (2) The PFCC must notify the Police, Fire and Crime Panel for Essex of the precept which the PFCC is proposing to issue for the financial year (the “proposed precept”).
- (3) The Police, Fire and Crime Panel must review the proposed precept notified to it under subsection 4.6(2).
- (4) The Panel must make a report to the PFCC on the proposed precept. The report may include recommendations, including recommendations as to the precept that should be issued for the financial year.

- (5) The Police, Fire and Crime Panel may, having reviewed the proposed precept, veto the proposed precept. If the panel vetoes the proposed precept, the report made under subsection 4.6(4) must include a statement that the panel has vetoed it.
- (6) References in this Article to the Police, Fire and Crime Panel vetoing a proposed precept are references to the panel making a decision, by the required majority, that the proposed precept should not be the precept for the financial year. For the purposes of this Article, the panel makes that decision by the required majority if at least two-thirds of the persons who are members of the panel at the time when the decision is made vote in favour of making that decision.
- (7) If the Police, Fire and Crime Panel does not veto the proposed precept, the PFCC must –
  - (a) have regard to the report made by the panel under subsection 4.6(4) (including any recommendations in the report)
  - (b) give the panel a response to the report (and any such recommendations), and
  - (c) publish the response. It is for the Police, Fire and Crime Panel to determine the manner in which a response to a report or recommendations is to be published.
- (8) The PFCC may then –
  - (a) issue the proposed precept as the precept for the financial year, or
  - (b) issue a different precept, but only if it would be in accordance with a recommendation made in the report to do so.
- (9) If the Police, Fire and Crime Panel vetoes the proposed precept, the PFCC must not issue the proposed precept as the precept for the financial year, subject to regulations made by the Secretary of State where the Police, Fire and Crime Panel vetoes the proposed precept.
- (10) Where the panel exercises its power to veto the proposed precept, the PFCC must, by 15 February of the relevant financial year –
  - (a) have regard to the report made by the panel under subsections 4.6(4) and (5) (including any recommendations in the report),
  - (b) give the panel a response to the report (and any such recommendations) which notifies the Police, Fire and Crime Panel of the precept that they now propose to issue (“the revised precept”), and

- (c) publish the response. It is for the Police, Fire and Crime Panel to determine the manner in which a response to a report or recommendations is to be published.
- (11) Where the panel's report under subsections 4.6(4) and (5) –
- (a) indicates that the panel vetoed the proposed precept because it was too high, the revised precept shall be lower than the proposed precept,
  - (b) indicates that the panel vetoed the proposed precept because it was too low, the revised precept shall be higher than the proposed precept.
- (12) On receiving a response containing notification of a revised precept under subsection 4.6(10)(b), the panel shall, by 22 February of the relevant financial year, review the revised precept and make a report to the PFCC on the revised precept (“the second report”).
- (13) The second report may –
- (a) indicate whether the panel accepts or rejects the revised precept (but rejection does not prevent the PFCC from issuing the revised precept as the precept for the financial year), and
  - (b) make recommendations, including recommendations as to the precept that should be issued for that financial year.
- (14) On receiving the panel's second report, the PFCC shall, by 1 March of the relevant financial year –
- (a) have regard to the second report (including any recommendations in the report);
  - (b) give the panel a response to the second report (and any such recommendations), and
  - (c) publish the response.
- (15) Where the panel vetoed the proposed precept, the end of the scrutiny process is reached when the PFCC gives the panel the response mentioned in subsection 4.6(14).
- (16) The PFCC may then issue the revised precept as the precept for the financial year or issue a different precept, subject to –
- (a) where the panel vetoed the proposed precept because it was too high, the PFCC shall not issue a precept which is higher than the revised precept, and

- (b) where the panel vetoed the proposed precept because it was too low, the PFCC shall not issue a precept which is lower than the revised precept,

unless it would be in accordance with a recommendation made by the panel in the second report to do so.

- (17) Where the panel fails to act in accordance with subsection 4.6(12), the end of the scrutiny process is reached and the PFCC may issue the revised precept as the precept for the financial year.

#### **4.6.1 Regulations**

- (1) Regulations made by the Secretary of State may make provision about the steps to be taken and procedures to be followed in proposing precepts. That includes provision about time limits applicable in taking steps or following procedures. The Police and Crime Panels (Precept and Chief Constable Appointments) Regulations 2012 are attached at Schedule 10 to this Constitution.
- (2) The regulations may make provision about limits on the precept that may be issued. That includes provision about the calculation of limits by reference to -
  - (a) one or more previous precepts,
  - (b) the proposed precept, or
  - (c) any other matters.
- (3) The regulations may confer functions on –
  - (a) the PFCC,
  - (b) the Police, Fire and Crime Panel,
  - (c) the Secretary of State, or
  - (d) any other person.

This includes functions involving the exercise of a discretion.
- (4) The PFCC may not issue a precept for a financial year until the end of the scrutiny process is reached. This occurs when –
  - (a) if no veto is received, the PFCC gives the Police, Fire and Crime Panel a response to the panel's report, or
  - (b) where there is a veto, the end of the process in accordance with the regulations issued by the Secretary of State is reached.
- (5) References in this Article to the issuing of a precept include references to the issuing of a substitute precept.

- (6) The duty of billing authorities or major precepting authorities under the 1992 Act to consult persons or bodies representative of persons subject to non-domestic rates as regards hereditaments situated in the area does not apply to the PFCC.

#### **4.7 Budget calculations: report on robustness of estimates etc**

- (1) When making calculations in accordance with the Local Government Finance Act 1992 (as a major precepting authority), the Chief Finance Officer of the PFCC must report to it on the robustness of the estimates made for the purposes of the calculations and the adequacy of the proposed financial reserves.
- (2) The PFCC shall have regard to the report when making decisions about the calculations in connection with which it is made.

#### **4.8 Local provision of youth justice services**

- (1) It shall be the duty of the PFCC to co-operate with each local authority in its area in the discharge of their duty to secure that, to such extent as is appropriate for their area, all youth justice services are available there.
- (2) The PFCC shall have power to make payments towards expenditure incurred in the provision of youth justice services by making the payments directly or by contributing to a fund, established and maintained by the local authority, out of which the payments may be made.
- (3) In this section, “youth justice services” means any of the following -
  - (a) the provision of persons to act as appropriate adults to safeguard the interests of children and young persons detained or questioned by police officers;
  - (b) the provision of assistance to persons determining whether youth cautions should be given;
  - (c) the assessment of children and young persons, and the provision for them of rehabilitation programmes;
  - (d) the provision of assistance to persons determining whether youth conditional cautions (within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998) should be given and which conditions to attach to such cautions;
  - (e) the supervision and rehabilitation of persons to whom such cautions are given;
  - (f) the provision of support for children and young persons remanded or committed on bail while awaiting trial or sentence;
  - (g) the placement in local authority accommodation of children and young persons remanded to such accommodation under section



91(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

- (h) the provision of reports or other information required by courts in criminal proceedings against children and young persons;
- (i) the performance by youth offending teams and members of youth offending teams of functions under sections 25 to 27 of the Anti-Social Behaviour Act 2003;
- (j) the provision of persons to act as responsible officers in relation to parenting orders, child safety orders and reparation orders;
- (k) the provision of persons to act as responsible officers in relation to youth rehabilitation orders (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008);
- (l) the supervision of children and young persons sentenced to a youth rehabilitation order under that Part which includes a supervision requirement (within the meaning of that Part);
- (m) the supervision of children and young persons sentenced to a detention and training order (including an order under section 211 of the Armed Forces Act 2006);
- (n) supervision after the end of the term of such an order under section 256AA of the Criminal Justice Act 2003 (as applied by section 106B of the Powers of Criminal Courts (Sentencing) Act 2000);
- (o) post-release supervision in accordance with a licence under section 31 of the Crime (Sentences) Act 1997 or section 250 of the Criminal Justice Act 2003 of a person sentenced to detention under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000, section 226, 226B or 228 of the Criminal Justice Act 2003 or section 209, 218, 221, 221A or 222 of the Armed Forces Act 2006;
- (p) post-release supervision under section 256B of the Criminal Justice Act 2003;
- (q) supervision under section 256AA of the Criminal Justice Act 2003 of a person sentenced to detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 209 of the Armed Forces Act 2006;
- (r) the performance of functions under subsection (1) of section 102 of the Powers of Criminal Courts (Sentencing) Act 2000 (period of detention and training under detention and training orders) by such persons as may be authorised by the Secretary of State under that subsection, and
- (s) the implementation of referral orders within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000.

- (4) The Secretary of State may by order amend the definition set out in (3) above so as to extend, restrict or otherwise alter the definition of “youth justice services” for the time being specified in that subsection.

#### **4.9 Capital finance etc and accounts**

- (1) The following provisions of Part 1 of the Local Government Act 2003 (capital finance etc and accounts) apply in relation to a Chief Constable as they apply in relation to a local authority:
- (a) section 6 (protection of lenders)
  - (b) section 7 (meaning of “credit arrangements”)
  - (c) sections 9 to 11 (capital receipts), except for sections 11(2)(6) and (3) to (6)
  - (d) section 13 (security for money borrowed etc)
  - (e) section 14 (information)
  - (f) section 15 (guidance)
  - (g) section 16 (meaning of “capital expenditure”)
  - (h) section 17 (external funds)
  - (i) section 18 (companies etc), ignoring any reference to a Passenger Transport Executive
  - (j) section 20 (directions)
  - (k) sections 21 and 22 (accounts)
- (2) Regulations made by the Secretary of State under any of the provisions listed in subsection (1) apply in relation to a Chief Constable of a police force in England as they apply in relation to a local authority in England.

#### **4.10 Financial reports**

- (1) The Chief Finance Officer of the PFCC shall make a report if it appears to him / her that the PFCC, a committee of the PFCC, a person holding any office or employment under the PFCC, a member of Essex Police force or a joint committee on which the PFCC is represented -
- (a) has made or is about to make a decision which involves or would involve the PFCC incurring expenditure which is unlawful,
  - (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the PFCC, or

- (c) is about to enter an item of account the entry of which is unlawful.
- (2) The Chief Finance Officer of the PFCC shall make a report if it appears to him / her that the expenditure of the PFCC incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.
- (3) It shall be the duty of the Chief Finance Officer of the PFCC, in preparing a report in pursuance of subsections (1) and (2) above, to consult so far as practicable with the Chief Executive as the PFCC's head of paid service under the Local Government and Housing Act 1989 and as the PFCC's monitoring officer under section 5 of that Act.
- (4) Where the Chief Finance Officer has made a report under this section they shall send a copy of it to the person who at the time the report is made has the duty to audit the PFCC's accounts.
- (5) Unless the Chief Finance Officer is unable to act owing to absence or illness, the duties of the Chief Finance Officer described above shall be performed by him / her personally.
- (6) If the Chief Finance Officer is unable to act owing to absence or illness his duties described above shall be performed –
- (a) by such member of his staff as is a member of one or more of the following bodies –
- (i) the Institute of Chartered Accountants in England and Wales,
  - (ii) the Institute of Chartered Accountants of Scotland,
  - (iii) the Chartered Association of Certified Accountants,
  - (iv) the Chartered Institute of Public Finance and Accountancy,
  - (v) the Institute of Chartered Accountants in Ireland,
  - (vi) the Chartered Institute of Management Accountants, and
- or any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this section.
- and is for the time being nominated by the Chief Finance Officer for the purposes of this section, or
- (b) if no member of staff is a member of one or more of these bodies, by such member of their staff as is for the time being nominated by the Chief Finance Officer for the purposes of this section.
- (7) Where the Chief Finance Officer makes a report to the PFCC in accordance with the provisions above, the PFCC must consider the report and decide whether it agrees or disagrees with the views contained in the report and what action (if any) the PFCC proposes to take in consequence of it. The consideration and decision-making must be concluded not later than the end of the period of 21 days beginning with the day on which copies of the report are sent.

- (8) As soon as practicable after the PFCC has concluded the consideration of the Chief Finance Officer's report, the PFCC must prepare a report which specifies –
  - (a) what action (if any) the PFCC has taken in response to the report;
  - (b) what action (if any) the PFCC proposes to take in response to the report; and
  - (c) the reasons for taking the action specified in the report or, as the case may be, for taking no action.
- (9) As soon as practicable after the elected local policing body has prepared a report under subsection (8), the PFCC must arrange for a copy to be sent to –
  - (a) the Chief Finance Officer;
  - (b) the person who at the time the report is made has the duty to audit the PFCC's accounts; and
  - (c) each member of the Essex Police, Fire and Crime Panel.
- (10) The Chief Finance Officer of the PFCC must notify the PFCC's auditor of any decisions taken by the PFCC in accordance with the provisions above.

## **4.11 Making collaboration agreements**

### **4.11.1 Police collaboration agreements**

- (1) A collaboration agreement may be made by:
  - (a) one or more PCCs / PFCCs together with one or more other persons; or
  - (b) if no other person is party to the agreement, two or more PCCs / PFCCs.
- (2) A collaboration agreement is an agreement containing one or more of the following:
  - (a) provision about the discharge of functions of members of a police force ("force collaboration provision");
  - (b) provision about support by a PCC / PFCC for another PCC / PFCC ("policing body collaboration provision"), or
  - (c) provision about support by a PCC / PFCC for the police force which another PCC / PFCC is responsible for maintaining ("policing body and force collaboration provision").
- (3) A collaboration agreement may not contain force–collaboration provision unless the parties to the agreement consist of, or include -
  - (a) the Chief Officer of police of each police force to which the provision relates, and
  - (b) the PCC / PFCC that is responsible for maintaining each such police force.

- (4) A collaboration agreement may not contain PCC / PFCC collaboration provision unless the parties to the agreement consist of, or include, each PCC / PFCC to which the provision relates.
- (5) A collaboration agreement may not contain PCC / PFCC and force collaboration provision unless the parties to the agreement consist of, or include:
  - (a) the PCC / PFCC, or each PCC / PFCC, to which the provision relates;
  - (b) the Chief Officer of Police of the police force, or each police force, to which the provision relates; and
  - (c) the PCC / PFCC that is responsible for maintaining each such police force.
- (6) In reaching a conclusion about whether or not a collaboration agreement is, or would be, in the interests of efficiency or effectiveness of one or more police forces (the “police forces under consideration”), a person must, in particular, consider –
  - (a) the existing collaboration agreements, and other arrangements for co-operation, to which the police forces under consideration are parties;
  - (b) the desirability of police forces taking a consistent approach in making such agreements and other arrangements; and
  - (c) the opportunities available to the police forces under consideration to make such agreements and other arrangements.
- (7) Subsection 4.11.1(1) does not prevent other persons from being parties to collaboration agreements.
- (8) Subsection 4.11.1(2) does not prevent a collaboration agreement from including other kinds of provision.
- (9) For the purposes of subsections 4.11.1(3) and (5), the circumstances in which force collaboration provision, or PCC / PFCC and force collaboration provision, is to be taken to relate to a police force include the cases where provision relates:
  - (a) to functions of a kind which are or may be exercisable by members of that police force, or
  - (b) to the police area for which that police force is established.
- (10) For the purposes of subsections 4.11.1(4) and (5), the circumstances in which PCC / PFCC collaboration provision, or PCC / PFCC and force collaboration provision, is to be taken to relate to a PCC / PFCC include the cases where provision relates:
  - (a) to functions of a kind which are or may be exercisable by that PCC / PFCC or members of the staff of that PCC / PFCC, or

- (b) to the police area for which that PCC / PFCC is established.
- (11) Where force collaboration, contained in a collaboration agreement, is about the discharge of functions by designated civilian employees of one police force (the “assisting force”) for the purposes of another police force (the “assisted force”), the force collaboration provision must specify:
- (a) the functions which the designated civilian employees are permitted by the collaboration agreement to discharge for the purposes of the assisted force, and
  - (b) any restrictions or conditions on that permission for the designated civilian employees to discharge those functions.
- (12) The force collaboration provision must not permit the designated civilian employees to discharge functions for the purpose of the assisted force unless those employees are, by virtue of the relevant designation under section 38 of the Police Reform Act 2002, authorised to discharge those functions for the purposes of the assisting force.
- (13) The force collaboration provision does not, in and of itself, authorise the designated civilian employees to discharge functions for the purposes of the assisted force. However, the chief officer of the assisted police force may designate a person who –
- (a) is a civilian employee of the assisting force,
  - (b) is designated under section 38 by the chief officer of the assisting police force, and
  - (c) is permitted, under relevant police collaboration provision, to discharge powers and duties specified in that provision for the purposes of the assisted force.
- (14) A power or duty may be conferred or imposed on that person by the collaboration designation only if that person is permitted, under the relevant police collaboration provision, to discharge that power or duty for the purposes of the assisted force. That person shall not be authorised or required by virtue of the collaboration designation to engage in any conduct otherwise than in the course of discharging a power or duty conferred or imposed on that person by the collaboration designation.
- (15) The collaboration designation of a person must be in accordance with the relevant police collaboration provision.
- (15) The collaboration designation must specify the restrictions and conditions to which that person is subject in the discharge of powers and duties conferred or imposed by the collaboration designation. Those restrictions and conditions must include the restrictions and conditions specified in the relevant police collaboration provision.

- (16) References in this Article to the discharge of functions by civilian employees of the assisting force for the purposes of the assisted force include references to –
- (a) the joint discharge of functions by the civilian employees and members of the assisted police force,
  - (b) the discharge of functions by civilian employees in the assisted force's area, and
  - (c) the provision of the civilian employees to the assisted force.
- (17) The terms of any police collaboration arrangement entered into by the PFCC (including the membership, terms of reference, functions, and any rules governing the conduct and proceedings of such collaborations) will be set out in a collaboration agreement, which will be entered into by the PFCC in accordance with the decision-making process detailed in Article 10. A collaboration agreement may be varied or determined by a subsequent agreement.
- (18) If it appears to the Secretary of State that any police functions can more efficiently or effectively be discharged by two or more police forces acting jointly, or that any premises, equipment or other materials or facilities can with advantage be provided jointly for two or more police forces, they may, after considering any representations made by the parties concerned, direct those parties to enter into a collaboration agreement under those provisions as may be specified in the direction.

#### **4.11.2 Emergency services collaboration agreements**

- (1) A collaboration agreement may be made by one or more persons as outlined below -
- (a) an ambulance trust in England,
  - (b) a fire and rescue body in England, and
  - (c) a police body in England.
- (2) A collaboration agreement is an agreement in writing that sets out how the parties to the agreement will work together in discharging their functions.
- (3) This does not prevent a person other than a person listed above from being a party to a collaboration agreement.
- (4) The provisions above are subject to specific restrictions set out in the Policing and Crime Act 2017.
- (5) If the PFCC is of the view that a proposed collaboration would be in the interests of its efficiency or effectiveness and / or the efficiency or effectiveness of the Essex Police force (if it were to give effect to the proposed collaboration, or to give it effect so far as it relates to the PFCC) and at least one other party is of that view, each such party must give effect to the proposed collaboration, or give effect to it so far as it relates to that party, by entering into a collaboration agreement.

- (6) The Chief Constable for Essex may not enter into a collaboration agreement unless the PFCC also enters into the agreement.
- (7) The PFCC must consult the Chief Constable for Essex before entering into a collaboration agreement (unless the Chief Constable for Essex is party to the agreement).
- (8) A collaboration agreement may, in particular, make provision about the use, for the purposes of the agreement, of a power of a party to the agreement to —
  - (a) make arrangements for the exercise of the party's functions by another person, or
  - (b) exercise functions jointly with another person.
- (9) A collaboration agreement may include provision for payments to be made by the parties to the agreement for the purposes of facilitating that agreement.
- (10) A party to a collaboration agreement may do anything that is necessary or expedient for the purposes of facilitating the agreement, subject to any restriction imposed on a party by, or by virtue of, an enactment or rule of law.
- (11) A collaboration agreement may not include provision for the delegation of a function where that function may not otherwise be delegated.
- (12) The delegation of a function pursuant to a collaboration agreement does not affect the responsibility of any party to the agreement for the exercise of its functions.
- (13) A collaboration agreement must make provision for a party to withdraw from the agreement where in the view of that party the agreement is no longer in the interests of its efficiency or effectiveness.
- (14) The terms of any emergency services collaboration arrangement entered into by the PFCC (including the membership, terms of reference, functions, and any rules governing the conduct and proceedings of such collaborations) will be set out in a collaboration agreement, which will be entered into by the PFCC in accordance with the decision-making process detailed in Article 10. A collaboration agreement may be—
  - (a) varied with the agreement of all of the parties to the agreement, or
  - (b) replaced by a subsequent collaboration agreement.

#### **4.11.3 Duty of the PFCC to keep collaboration agreements under review**

- (1) The PFCC must keep under consideration the ways in which the collaboration functions could be exercised by the PFCC and by one or more other persons to improve -
  - (a) the efficiency or effectiveness of the PFCC and / or the Essex Police force, or



- (b) the efficiency or effectiveness of one or more other PCCs / PFCCs and police forces.
- (2) If the PFCC considers that there is a particular way in which the collaboration functions could be so exercised by the PFCC and by one or more other particular persons (“the proposed collaboration”), the PFCC must notify those other persons (the “proposed partners”) of the proposed collaboration.
- (3) The PFCC, and the proposed partners notified under subsection 4.11.3(2) (the “notified proposed partners”) must consider whether to exercise the collaboration functions to give effect to the proposed collaboration.
- (4) In considering whether to so exercise the collaboration functions, the PFCC and the notified proposed partners must consider whether the proposed collaboration would be in the interests of the efficiency or effectiveness of one or more PCCs / PFCCs or police forces.
- (5) If all, or two or more, of the PFCC and the notified proposed partners (the “agreeing parties”) are of the view that the proposed collaboration would be in the interests of the efficiency or effectiveness of one or more PCCs / PFCCs or police forces (if the agreeing parties were to exercise the collaboration functions to give effect to the proposed collaboration, or to give effect to it so far as it relates to them), the agreeing parties must exercise the collaboration functions to give effect to the proposed collaboration, or to give effect to it so far as it relates to them.
- (6) In this Article “collaboration functions” means functions of PCCs / PFCCs or chief officers of police under any of sections 22A to 23I of the Police Act 1996.

#### **4.12 Financial and Procurement Regulations**

- (1) The management of the PFCC’s financial affairs will be conducted in accordance with Financial and Procurement Regulations attached at Schedule 13 to the Constitution.
- (2) Every contract made by the PFCC will comply with the Financial and Procurement Regulations.

#### **4.13 Preventing fraud and corruption**

- (1) The PFCC is firmly committed to dealing with fraud and corruption and will deal equally with both internal and external perpetrators. The PFCC’s Anti-Fraud and Anti-Bribery Commitment is set out in Schedule 14 to this Constitution.
- (2) The Chief Finance Officer is responsible for the development and maintenance of the Anti-Fraud and Anti-Bribery Commitment.

#### 4.14 Local authority investment schemes

- (1) The PFCC may invest property held by them in accordance with a scheme submitted to the Treasury by an association of local authorities and approved by the Treasury as enabling investments to be made collectively without in substance extending the scope of powers of investment.

### Article 5 – Conduct

#### 5.1 The Nolan and Policing Principles

- (1) The Policing Protocol Order 2023 (Schedule 6) requires the PFCC to abide by the seven principles set out in Standards in Public Life: First Report of the Committee on Standards in Public Life (known as “The Nolan Principles”) -

**Selflessness** - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity** - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability** - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness** - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty** - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership** - Holders of public office should promote and support these principles by leadership and example.

- (2) Essex Police and the Police, Fire and Crime Commissioner for Essex have also adopted the two further policing principles of **fairness** and **respect**.
- (3) In any consideration of the PFCC or DPFCC’s conduct, these principles will be taken into account by relevant bodies including the Independent Office for Police Conduct (IOPC) and the Police, Fire and Crime Panel.

#### 5.2 Code of Conduct

- (2) (1) The Commissioner will approve and publish a Code of Conduct (attached at Schedule 7 to this Constitution). This Code of Conduct sets out

the professional and ethical standards expected of the PFCC, Deputy PFCC and all employees of the Commissioner.

- (3) (2) The Commissioner and their Deputy (if appointed) will, within 28 days of taking office, enter in the Register of Disclosable Interests maintained by the Monitoring Officer every disclosable interest as set out in the Register, and will keep this up to date throughout their term of office.
- (4) (3) The register of interests and gifts and hospitality shall be published on the Commissioner's website.

### **5.3 Conflicts of interest**

- (1) The PFCC, in any case where the interests of exercising the functions of their office may conflict with any disclosable or other interest which has become known to him / her, shall as soon as possible declare such conflict as is required in accordance with the paragraph 3 of the Elected Local Policing Bodies (Specified Information) Order 2011 (see Schedule 1 to this Constitution).
- (2) The PFCC shall determine whether the conflict of interest is so substantial that the function should not be exercised personally but should be delegated or dealt with in some other manner to ensure the conflict of interest does not arise.

### **5.4 Complaints and conduct matters which relate to the PFCC or Deputy PFCC**

- (1) Complaints and conduct matters relating to the PFCC / Deputy PFCC will usually be considered -
  - (a) By the Independent Office for Police Conduct (IOPC), or
  - (b) By a police force, in an investigation that is under the direction of the Independent Office for Police Conduct, or
  - (c) By the Police, Fire and Crime Panel.
- (2) A "serious complaint", which means a complaint made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence, will usually be investigated by the Independent Office for Police Conduct or independent police force, though regulations may make provision about the receipt or initial handling of serious complaints or conduct matters otherwise than by the IOPC or a police force.
- (3) Regulations may make provision about –
  - (a) circumstances in which serious complaints or conduct matters are not to be investigated; and
  - (b) circumstances in which investigations of serious complaints or conduct matters are to be discontinued;including provision about the determination of such matters (whether by the IOPC, a police force or otherwise).
- (4) Other complaints, which are not, or cease to be, investigated by the IOPC or a police force, will usually be investigated by the Police, Fire and Crime

Panel which will conduct an informal resolution of complaints in accordance with the requirements of the Elected Local Policing Body (Complaints and Misconduct) Regulations 2012 (attached at Schedule 8). However, regulations may make provision about the receipt or initial handling of qualifying complaints other than by the Police, Fire and Crime Panel.

- (5) Regulations may also confer functions on –
- (a) the Independent Office for Police Conduct,
  - (b) a police force,
  - (c) the Police, Fire and Crime Panel,
  - (d) the Secretary of State, or
  - (e) any other person
- including functions involving the exercise of a discretion.
- (6) Regulations may not provide for the PFCC or Deputy PFCC –
- (a) to cease to hold office, or
  - (b) to be required to cease to hold office.

## **5.5 Complaints against Police staff and the Chief Constable**

- (1) In this Article, references to a complaint are references to any expression of dissatisfaction with the Essex Police force which is expressed (whether in writing or otherwise) by or on behalf of a member of the public. An expression of dissatisfaction is a complaint for the purposes of this Article –
- (a) where it relates to the conduct of a person serving with the police, only if the person in question is –
    - (i) a person who claims to be the person in relation to whom the conduct took place;
    - (ii) a person not falling within (i) who claims to have been adversely affected by the conduct; or
    - (iii) a person who claims to have witnessed the conduct;
  - (b) in any other case, only if the person in question has been adversely affected by the matter about which dissatisfaction is expressed.
- (2) In this Article, “conduct matter” means any matter which is not and has not been the subject of a complaint but in the case of which there is an indication that a person serving with the police may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings. “Conduct” includes acts, omissions, statements and decisions (whether actual, alleged or inferred).
- (3) In this Article, “death or serious injury matter” (“DSI matter”) means any circumstances (other than those which are or have been the subject of a complaint or which amount to a conduct matter) in which or in consequence of which a person has died or sustained serious injury and –

- (a) at the time of the death or serious injury, the person –
    - (i) had been arrested by a person serving with the police and had not been released from that arrest; or
    - (ii) was otherwise detained in the custody of a person serving with the police; or
  - (b) at or before the time of the DSI the person had contact (of whatever kind, and whether direct or indirect) with a person serving with the police who was acting in the execution of his duties, and there is an indication that the contact may have caused (whether directly or indirectly) or contributed to the DSI.
- (4) In this Article, “serious injury” means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function.
- (5) In this Article, “the appropriate authority” in relation to a person serving with the police or in relation to any complaint, conduct matter or investigation relating to the conduct of such a person, or in relation to a DSI matter, means –
- (i) if that person is the Chief Constable or an acting Chief Constable, the PFCC;
  - (ii) if that person is not the Chief Constable or an acting Chief Constable, the Chief Constable under whose direction and control they are;
  - (iii) in relation to any other complaint, means the Chief Constable.
- (6) For the purposes of this Article, “acting Chief Constable” means a person exercising or performing functions of the Chief Constable in accordance with section 41 of the Police Reform and Social Responsibility Act 2011.
- (7) Complaints, for the purposes of this Article, do not include any where the person in question claims to have been adversely affected as a consequence only of having seen or heard the conduct, or any of the alleged effects of the conduct, unless -
- (a) it was only because the person in question was physically present, or sufficiently nearby, when the conduct took place or the effects occurred that they were able to see or hear the conduct or its effects; or
  - (b) the adverse effect is attributable to, or was aggravated by, the fact that the person in relation to whom the conduct took place was already known to the person claiming to have suffered the adverse effect.
- (8) “The person in question” means the person expressing dissatisfaction or the person on whose behalf dissatisfaction is being expressed.
- (9) For the purposes of this Article, a person is adversely affected if they suffer any form of loss or damage, distress or inconvenience, if they are put in

danger or if they are otherwise unduly put at risk of being adversely affected.

- (10) For the purposes of this Article, a person shall be taken to have witnessed conduct if, and only if –
- (a) they acquired their knowledge of that conduct in a manner which would make him / her a competent witness capable of giving admissible evidence of that conduct in criminal proceedings; or
  - (b) they have in their possession or under their control anything which would in such proceedings constitute admissible evidence of that conduct.
- (11) For the purposes of this Article, a person is not to be taken to have authorised another person to make a complaint on their behalf unless –
- (a) that person is for the time being designated by the Independent Office for Police Conduct (IOPC) as a person through whom complaints may be made, or
  - (b) the other person has been given, and is able to produce, the written consent to their so acting of the person on whose behalf they act.
- (12) A person has an interest in being kept properly informed about the handling of a complaint, recordable conduct matter or DSI matter if –
- (a) they are a relative of a person whose death is the alleged result from the conduct complained of or to which the recordable conduct matter or the DSI matter relates;
  - (b) they are a relative of a person whose serious injury is the alleged result from that conduct or DSI matter and that person is incapable of making a complaint;
  - (c) he himself / she herself has suffered serious injury as the alleged result of that conduct or DSI matter; or
  - (d) the IOPC and the appropriate authority consider that they have an interest in the handling of the complaint, recordable conduct matter or DSI matter which is sufficient to make it appropriate for information to be passed to him / her in accordance with this Article

and that person has indicated that they consent to the provision of information to him / her in accordance with this Article and that consent has not been withdrawn.

- (13) Where a complaint is made about the conduct of the Chief Constable, the PFCC shall ensure that all such steps as are appropriate are taken, both initially and thereafter, for obtaining and preserving evidence relating to the conduct complained of.
- (14) The PFCC will comply with all directions given by the Independent Office for Police Conduct (IOPC) in relation to the performance of their duties relating to the complaint.

### **5.5.1 Initial handling and recording of complaints**

- (1) Where a complaint is made to the PFCC, they shall determine whether or not they are the appropriate authority and, if it determines that they are not, give notification of the complaint to the person who is.
- (2) Where the PFCC determines, in the case of any complaint made to the PFCC, that they are the appropriate authority or a complaint is notified to the PFCC as the appropriate authority, they shall contact the complainant and seek the complainant's views on how the complaint should be handled.
- (3) The PFCC must record the complaint if at any time the complainant indicates a wish for the complaint to be recorded, or the PFCC determines that the complaint is to be handled in accordance with this Article.
- (4) The PFCC must determine that a complaint is to be handled in accordance with this Article if -
  - (a) the complaint is one alleging that the conduct or other matter complained of has resulted in death or serious injury,
  - (b) the complaint is one alleging that there has been conduct which (if proved) might constitute the commission of a criminal offence or justify the bringing of disciplinary proceedings,
  - (c) the conduct or other matter complained of (if proved) might have involved the infringement of a person's rights under Article 2 or 3 of the Commission on Human Rights, or
  - (d) the complaint is of a description specified in regulations made by the Secretary of State.
- (5) Nothing in this Article shall require the taking of any action in relation to a complaint if the complaint has been withdrawn.

### **5.5.2 Reference of complaints to the IOPC**

- (1) It shall be the duty of the PFCC to refer a complaint to the IOPC if -
  - (a) the complaint is alleging that the conduct complained of has resulted in death or serious injury;
  - (b) the complaint is of a description specified in regulations made by the Secretary of State; or
  - (c) the IOPC notifies the PFCC that it requires the complaint in question to be referred to the IOPC for its consideration.
- (2) Where there is an obligation to refer a complaint to the IOPC, it must be so referred within such period as may be provided for in regulations made by the Secretary of State.
- (3) In a case where there is no obligation to make a reference, the PFCC may refer a complaint to the IOPC if they consider that it would be appropriate to do so by reason of the gravity of the subject matter of the complaint; or any exceptional circumstances.

- (4) The power of the PFCC to refer a complaint to the IOPC shall be exercisable at any time, irrespective of whether the complaint is already being investigated by any person or has already been considered by the IOPC. The power to refer a complaint to the IOPC is also exercisable after a complaint has been handled in accordance with this Article if a recommendation on a review is made.
- (5) Where the PFCC refers a complaint to the IOPC, they shall give notification of making the reference to the complainant and, except in a case where it appears to the PFCC that to do so might prejudice an investigation of the complaint (whether an existing investigation or possible future one), the person complained against.
- (6) The PFCC must record any complaint that is referred to the IOPC under these provisions that has not already been recorded.
- (7) It shall be the duty of the IOPC in the case of every complaint referred to it by the PFCC to determine whether it is necessary for the complaint to be investigated. Where the IOPC determines that it is not necessary for the complaint to be investigated –
  - (a) in a case where the complaint is already being investigated by the PFCC on its own behalf (and notwithstanding the IOPC's determination), the IOPC must refer the complaint back to the PFCC for the investigation to be completed, and
  - (b) in any other case, the IOPC may, if it thinks fit, refer the complaint to the PFCC to be dealt with by the PFCC as the appropriate authority.

### **5.5.3 Handling of complaints by the PFCC as the appropriate authority**

- (1) Where they are the appropriate authority, the PFCC must handle the complaint in such reasonable and proportionate manner as the PFCC determines. The PFCC may (amongst other things) –
  - (a) make arrangements for the complaint to be investigated by the PFCC on their own behalf, or
  - (b) notify the complainant that no further action is to be taken in relation to the complaint.
- (2) The PFCC must make arrangements for the complaint to be investigated by the PFCC on their own behalf if at any time it appears to the PFCC from the complaint, or from the PFCC's handling of the complaint to that point, that there is an indication that –
  - (a) a person serving with the police may have committed a criminal offence or behaved in a manner that would justify the bringing of disciplinary proceedings, or
  - (b) there may have been the infringement of a person's rights under Article 2 or 3 of the Convention on Human Rights.
- (3) In any case where there is an investigation of a complaint, recordable conduct matter or DSI matter by the PFCC, either on their own behalf or under the direction of the IOPC, it shall be the duty of the PFCC to provide



the complainant with all such information as will keep him / her properly informed, while the investigation is being carried out and subsequently, of all matters relating to –

- (a) the progress of the handling of the complaint, recordable conduct matter or DSI matter;
- (b) the outcome of the handling of the complaint, recordable conduct matter or DSI matter;
- (c) any learning identified as a result of a complaint, including details of how and when any improvements will be implemented;
- (d) any right to apply for a review conferred on the complainant; and
- (e) other such matters as may be specified in regulations made by the Secretary of State.

#### **5.5.4 Reviews relating to complaints dealt with other than by investigation**

- (1) Where a complaint is handled by the PFCC as the appropriate authority otherwise than by the PFCC making arrangements for the complaint to be investigated on their own behalf, the complainant has the right to apply to the IOPC as the relevant review body for a review of the outcome of the complaint.
- (2) Where the IOPC finds that the outcome is not reasonable and proportionate, the IOPC may determine that it is necessary for the complaint to be investigated and make a recommendation as such.

#### **5.5.5 Conduct matters arising in civil proceedings**

- (1) Where the PFCC has received notification that civil proceedings relating to any matter have been brought by a member of the public against the PFCC or Chief Constable, or it otherwise appears to the PFCC that such proceedings are likely to be brought, and it appears to the PFCC (whether at the time of the notification or at any time subsequently) that those proceedings involve or would involve a conduct matter, the PFCC –
  - (a) shall consider whether they are the appropriate authority in relation to the conduct matter in question; and
  - (b) if they are not, shall notify the person who is the appropriate authority about the proceedings, or the proposal to bring them, and about the circumstances that make it appear as such.
- (2) Where the PFCC determines that they are the appropriate authority in relation to any conduct matter, they shall determine whether the matter is one which they are required to refer to the IOPC or is one which it would be appropriate to refer. In a case where the PFCC determines that the matter is one which they are required to refer to the IOPC, or is one which it would be appropriate to refer, they shall record the matter.
- (3) Nothing in this Article shall require the PFCC to record any matter if they are satisfied that the matter has been, or is already being, dealt with by

means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.

#### **5.5.6 Recording of conduct matters etc in other cases**

- (1) Where a conduct matter comes (otherwise than as referenced in the section above) to the attention of the PFCC as the appropriate authority in relation to that matter, and it appears to the PFCC that the conduct involved –
  - (a) appears to have resulted in the death of any person or in serious injury to any person;
  - (b) has adversely affected a member of the public; or
  - (c) is of a description specified in regulations made by the Secretary of State;

the PFCC must determine whether the matter is one which they are required to refer to the IOPC or is one which it would be appropriate to refer.

- (2) In a case where the PFCC determines that the matter is one which they are required to refer to the IOPC, or is one which it would be appropriate to refer, they shall record the matter.
- (3) Nothing in this Article shall require the PFCC to record any conduct matter if they are satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.

#### **5.5.7 Reference of conduct matters to the IOPC**

- (1) It shall be the duty of the PFCC to refer a recordable conduct matter to the IOPC if, in a case in which the PFCC is the appropriate authority –
  - (a) that matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury;
  - (b) that matter is of a description specified in regulations made by the Secretary of State; or
  - (c) the IOPC notifies the PFCC that it requires that matter to be referred to the IOPC for its consideration.
- (2) In any case where there is no obligation to make a reference, the PFCC may refer a recordable conduct matter to the IOPC if the PFCC considers that it would be appropriate to do so by reason of the gravity of the matter; or any exceptional circumstances.
- (3) In any case in which a reference is neither made nor required to be made, the PFCC may refer any recordable conduct matter to the IOPC if –
  - (a) it is one in relation to which the Chief Constable of Essex is the appropriate authority; and
  - (b) the PFCC considers that it would be appropriate to do so by reason of the gravity of the matter; or any exceptional circumstances.

- (4) Where there is an obligation to refer any matter to the IOPC, it must be referred within such period as may be provided for by regulations made by the Secretary of State.
- (5) The power of the IOPC to require a matter to be referred to it, and the power of the PFCC to refer any matter to the IOPC shall be exercisable at any time irrespective of whether the matter is already being investigated by any person or has already been considered by the IOPC.
- (6) Where the PFCC refers a matter to the IOPC and the PFCC does not consider that to do so might prejudice an investigation of that matter (whether an existing investigation or a possible future one) the PFCC shall give a notification of the making of the reference to the person to whose conduct that matter relates.
- (7) It shall be the duty of the IOPC, in the case of every recordable conduct matter referred to it by the PFCC, to determine whether or not it is necessary for the matter to be investigated. Where the IOPC determines that it is not necessary for a recordable conduct matter to be investigated –
  - (a) in a case where the recordable conduct matter is already being investigated by the PFCC on their own behalf (and notwithstanding the IOPC's determination), the IOPC must refer the matter back to the PFCC for the investigation to be completed, and
  - (b) in any other case, the IOPC may, if it thinks fit, refer the matter back to the PFCC to be dealt with by the PFCC in such manner (if any) as it may determine.

#### **5.5.8 Duty to preserve evidence relating to conduct matters**

- (1) Where a recordable conduct matter that relates to the Chief Constable comes to the attention on the PFCC, it shall be the duty of the PFCC to ensure that all such steps as appropriate are taken, both initially and thereafter, for obtaining and preserving evidence relating to that matter. It shall be the duty of the PFCC to comply with all such directions as may be given to them by the IOPC in relation to the performance of this duty.

#### **5.5.9 Death and serious injury (DSI) matters**

- (1) Where a DSI matter comes to the attention of the PFCC or the Chief Constable who is the appropriate authority in relation to that matter, it shall be the duty of the appropriate authority to record that matter.
- (2) Where a DSI matter comes to the attention of the PFCC and the relevant officer in relation to that matter is the Chief Constable of Essex, it shall be the duty of the PFCC to ensure that all such steps as are appropriate are taken, both initially and thereafter, for obtaining and preserving best evidence relating to that matter. It shall be the duty of the PFCC to comply with all such direction as may be given to them by the IOPC in relation to the performance of that duty.
- (3) "The relevant officer", in relation to a DSI matter, means the person serving with the police –

- (a) who arrested the person who has died or suffered serious injury;
- (b) in whose custody the person was at the time of the death or serious injury; or
- (c) with whom that person had the contact in question.

Where there is more than one such person, it means the one who dealt with him / her last before the DSI occurred. Where it cannot be determined which of the two or more persons serving with the police dealt with a person last before a DSI occurred, the relevant officer is the most senior of them.

- (3) It shall be the duty of the appropriate authority to refer a DSI matter to the IOPC, within such period as may be provided for by regulations made by the Secretary of State.
- (4) It shall be the duty of the IOPC, in the case of every DSI matter referred to it by the PFCC, to determine whether or not it is necessary for the matter to be investigated. Where the IOPC determines that it is not necessary for a DSI matter to be investigated -
  - (a) in a case where the DSI matter is already being investigated by the PFCC on their own behalf (and notwithstanding the IOPC's determination), the IOPC must refer the matter back to the PFCC for the investigation to be completed, and
  - (b) in any other case, the IOPC may, if it thinks fit, refer the matter back to the PFCC to be dealt with by the PFCC in such manner (if any) as it may determine.

**5.5.10 Procedure where a conduct matter is revealed during investigation of a DSI matter**

- (1) If, during the course of an investigation into a DSI matter, it appears to a person investigating on behalf of or under the direction of the IOPC that there is an indication that the person whose conduct is in question may have committed a criminal offence or behaved in manner which would justify the bringing of disciplinary proceedings, he shall make a submission to that effect to the IOPC.
- (2) If, after considering such a submission, the IOPC determines that there is such an indication, it shall notify the appropriate authority and send it a copy of the submission.
- (3) If, during the course of an investigation into a DSI matter, it appears to a person investigating on behalf of the appropriate authority that there is an indication that the person whose conduct is in question may have committed a criminal offence or behaved in manner which would justify the bringing of disciplinary proceedings, he shall make a submission to that effect to the appropriate authority.
- (4) If, after considering such a submission, the appropriate authority determines that there is such an indication, it shall notify the IOPC of its determination and send it a copy of the submission.

- (5) Where the PFCC is notified of such a determination by the IOPC or makes such a determination, they shall record the matter as a conduct matter, and the person investigating the DSI matter shall (subject to any determination made by the IOPC) continue the investigation as if appointed or designated to investigate the conduct matter.
- (6) Where the IOPC determines that there is no indication in the report that a person serving with the police may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings, the IOPC may notify the appropriate authority that it must determine whether or not the performance of a person serving with the police is unsatisfactory, and what action (if any) the appropriate authority will take in respect of any such person's performance. On receipt of such a notification the appropriate authority shall make those determinations and submit a memorandum to the IOPC setting out the determinations the appropriate authority has made.
- (7) On receipt of such a memorandum, the IOPC shall -
  - (a) consider the memorandum and whether the appropriate authority has made the determinations that the IOPC considers appropriate;
  - (b) determine whether or not to make any recommendations;
  - (c) make such recommendations (if any) as it thinks fit.

#### **5.5.11 Powers of the IOPC to determine the form of an investigation**

- (1) Where a complaint, recordable conduct matter or DSI matter is referred to the IOPC and the IOPC determines that it is necessary for the complaint or matter to be investigated, it shall be the duty of the IOPC to determine the form which the investigation should take.
- (2) The only forms which the investigation may take are -
  - (a) an investigation by the appropriate authority on its own behalf;
  - (b) an investigation by the appropriate authority under the direction of the IOPC;
  - (c) an investigation by the IOPC.
- (3) Where the IOPC determines that an investigation is to take the form of an investigation by the appropriate authority under the direction of the IOPC, the IOPC must keep under review whether that form of investigation continues to be the most appropriate form of investigation. If, on such a review, the IOPC determines that it would be more appropriate for the investigation to take the form of an investigation by the IOPC or an investigation by the appropriate authority on its own behalf, the IOPC may make a further determination (to replace the earlier one) that the investigation is instead to take that form.
- (4) The IOPC may at any time make a further determination to replace an earlier one. In such cases, the IOPC may give the appropriate authority and any person previously appointed to carry out the investigation such

directions as it considers appropriate for the purpose of giving effect to the new determination. It shall be the duty of a person to whom such direction is given to comply with it.

#### **5.5.12 Investigations by the PFCC on their own behalf**

- (1) Where the PFCC is required to make arrangements for a complaint, recordable conduct matter or DSI matter to be investigated as the appropriate authority on their own behalf, the PFCC will appoint a person serving with the police (whether under the direction and control of the Chief Constable of Essex or of the Chief Constable of another force) or a National Crime Agency officer to investigate the complaint or matter.
- (2) In the case of an investigation into the conduct of the Chief Constable, the person appointed to investigate any complaint, conduct matter or DSI matter must not be a person under the Chief Constable's direction and control.

#### **5.5.13 Investigations directed by the IOPC**

- (1) Where the IOPC has determined that it should direct the investigation by the PFCC of any complaint, recordable conduct matter or DSI matter, on being given notice of the determination, the PFCC shall, if it has not already done so, appoint a person serving with the police (whether under the direction and control of the Chief Constable of Essex or of the Chief Constable of another force) or a National Crime Agency officer to investigate the complaint or matter.
- (2) The IOPC may require that no appointment is made under (1) above unless it has given notice to the PFCC that it approves the person whom the PFCC proposes to appoint.
- (3) Where at any time the IOPC is not satisfied with the person investigating, the IOPC may require the PFCC, as soon as reasonably practicable after being required to do so, to select another person to investigate the complaint or matter and to notify the IOPC of the person selected.
- (4) Where a selection made in pursuance of (3) above has been notified to the IOPC, the PFCC shall appoint that person to investigate the complaint or matter if, but only if, the IOPC notifies the PFCC that it approves the appointment of that person. If the IOPC notifies the PFCC that it does not approve the appointment of that person, the PFCC must make another selection.
- (5) In the case of an investigation into the conduct of the Chief Constable, the person appointed to investigate any complaint, conduct matter or DSI matter must not be a person under the Chief Constable's direction and control. A person may not be appointed to carry out an investigation by the appropriate authority unless the person has an appropriate level of knowledge, skills and experience to plan and manage the investigation, or if the person's involvement could reasonably give rise to a concern as to whether the person could act impartially.

- (6) The person appointed to investigate the complaint or matter shall, in relation to that investigation, be under the direction and control of the IOPC, and shall keep the IOPC informed of progress of the investigation.

#### **5.5.14 Investigations by the IOPC**

- (1) It shall be the duty of the PFCC at such times, in such circumstances and in accordance with such other requirements as may be set out in regulations made by the Secretary of State, to –
- (a) provide the IOPC and every member of the IOPC’s staff with all such assistance as the IOPC or that member of staff may reasonably require for the purposes of, or in connection with the carrying out of any investigation or review by the IOPC under this Article,
  - (b) ensure that a person appointed to carry out an investigation is given all such assistance and co-operation in the carrying out of that investigation as the person may reasonably require,
  - (c) provide the IOPC with all such information and documents as may be specified or described in regulations or in a notification given by the IOPC to the PFCC, and
  - (d) produce or deliver up to the IOPC all such evidence and other things specified or described

as appear to the IOPC to be required by it for the purposes of carrying out any of its functions, in such manner and within such period as may be specified in the notification imposing the requirement or in any subsequent notification given by the IOPC to the PFCC for the purposes of this Article.

- (2) For the purposes of this Article –
- (a) “document” means anything in which information of any description is recorded;
  - (b) “information” includes estimates and projections and statistical analyses.

#### **5.5.15 The IOPC’s power to investigate concerns raised by whistle-blowers**

- (1) The IOPC may investigate any concern raised by a whistle-blower of which it becomes aware, but only if the whistle-blower informs the IOPC, before the beginning of the investigation, that he or she consents to an investigation taking place.
- (2) For the purposes of this Article, a person is a “whistle-blower” if –
- (a) the person is, or was at any time, under the direction and control of the Chief Constable,
  - (b) the person raises a concern that is about Essex Police or a person serving with Essex Police,

- (c) the matter to which the concern relates is not –
    - (i) about the conditions of service of persons serving with the police, or
    - (ii) a matter that is, or could be, the subject of a complaint by the person, and
  - (d) at the time the IOPC first becomes aware of the concern, the matter to which it relates is not under investigation by or under the direction of the IOPC.
- (3) If the IOPC decides not to carry out an investigation, the IOPC must inform the whistle-blower of its decision.
  - (4) In such a case, the IOPC may, with the consent of the whistle-blower, disclose the nature of the concern to the appropriate authority and make recommendations in light of the concern.
  - (5) Before deciding whether to carry out an investigation, the IOPC must consider whether the concern is about a conduct matter or a DSI matter. If the IOPC determines that the concern is about a conduct matter or DSI matter, it must not carry out an investigation, and it must notify the appropriate authority in relation to the person whose conduct is in question, or in relation to the DSI matter, of its determination.
  - (6) Where the PFCC is notified of a conduct matter as the appropriate authority under (5) above, they must record the matter.

#### **5.5.16 Procedure where a conduct matter is revealed during a whistle-blowing investigation**

- (1) If, during the course, of an investigation into a concern raised by a whistle-blower, it appears to the person in charge that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings, the person in charge must make a submission to that effect to the IOPC.
- (2) If, after considering the submission, the IOPC determines that there is such an indication, it must notify the appropriate authority in relation to the person whose conduct is in question of its determination and send it a copy of the submission referenced in (1) above.
- (3) Where the PFCC is notified of such a determination as the appropriate authority in relation to the person whose conduct is in question, they must record the matter as a conduct matter.
- (4) Where a matter is recorded as a conduct matter under the provisions of (3) above, the person in charge of the investigation must (subject to any determination made by the IOPC) continue the investigation as if appointed or designated to investigate the conduct matter.
- (5) On receipt of a report into a whistle-blowing investigation, the IOPC may make a recommendation in relation to any matter dealt with in it.



#### **5.5.17 Procedure where a DSI matter is revealed during a whistle-blowing investigation**

- (1) If, during the course, of an investigation into a concern raised by a whistle-blower, it appears to the person in charge that the matter may be a DSI matter, the person in charge must make a submission to that effect to the IOPC.
- (2) If, after considering the submission, the IOPC determines that the matter is a DSI matter, it must notify the appropriate authority in relation to the DSI matter of its determination and send it a copy of the submission referenced in (1) above.
- (3) Where the PFCC is notified of such a determination as the appropriate authority in relation to the DSI matter, they must record the matter as a DSI matter.
- (4) Where a matter is recorded as a DSI matter under the provisions of (3) above, the person in charge of the investigation must (subject to any determination made by the IOPC) continue the investigation as if appointed or designated to investigate the DSI matter.
- (5) On receipt of a report into a whistle-blowing investigation, the IOPC may make a recommendation in relation to any matter dealt with in it.

#### **5.5.18 Accelerated procedure in special cases**

- (1) This section applies where, at any time before the completion of an investigation of a complaint or recordable conduct matter, either the person investigating believes or (in the case of investigations directed by the IOPC) the IOPC determines that the appropriate authority would, on consideration of the matter, be likely to consider that –
  - (a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct to which the investigation relates constitutes gross misconduct; and
  - (b) it is in the public interest for the person whose conduct it is to cease to be a member of the Essex Police force, without delay.
- (2) Where these conditions apply, the person under investigation, the PFCC and the IOPC must proceed in accordance with regulations made by the Secretary of State.

#### **5.5.19 Payment for assistance with investigations**

- (1) Where assistance is required to be provided by one police force to another, the PCC / PFCC maintaining that police force shall pay the PCC / PFCC maintaining the assisting force such contribution (if any) towards the costs of the assistance -
  - (a) as may be agreed between them; or
  - (b) in the absence of an agreement, as may be determined in accordance with any arrangements which –

- (i) have been agreed by PCCs / PFCCs generally; and
  - (ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided in connection with investigations by one police force to another, or
  - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.
- (2) Where assistance is required to be provided by Essex Police to the IOPC as an assisting force, the IOPC shall pay the PFCC such contribution (if any) towards the costs of the assistance –
- (a) as may be agreed between the IOPC and the PFCC; or
  - (b) are for the time being in force with respect to the making of contributions towards the costs of assistance provided in connection with investigations under this Article; or
  - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.

#### **5.5.20 Restrictions on proceedings pending the conclusion of an investigation**

- (1) No criminal or disciplinary proceedings shall be brought in relation to any matter that is the subject of an investigation in accordance with this Article until the appropriate authority has certified the case as a special case, or a report on that investigation has been submitted to the IOPC or to the appropriate authority.

#### **5.5.21 Action by the IOPC in response to an investigation report**

- (1) On receipt of a report, the IOPC shall –
- (a) if it appears that the appropriate authority has not already been sent a copy of the report, send a copy of the report to the appropriate authority; and
  - (b) determine whether the following conditions are satisfied in respect of the report –
    - (i) that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related, and
    - (ii) the circumstances are such that, in the opinion of the IOPC, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
    - (iii) any matters dealt with in the report fall within any prescribed category of matters.
- (2) If the IOPC determines that these conditions are satisfied, it shall –
- (a) notify the Director of Public Prosecutions of the determination and send him / her a copy of the report, and

- (b) notify the following of its determination, any action taken by it, and if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in the report copied to him / her –
  - (i) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint; and
  - (ii) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter.
- (3) On receipt of the report, the IOPC shall also –
  - (a) seek the views of the appropriate authority on -
    - (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and
    - (ii) whether or not any such person's performance is unsatisfactory, and
    - (iii) the other matters (if any) dealt with in the report.
  - (b) having considered the views (if any) of the appropriate authority, make a determination as to -
    - (i) the matters described above, and
    - (ii) whether or not disciplinary proceedings should be brought against any person to whose conduct the investigation is related and, if so, what form the disciplinary proceedings should take,
  - (c) having considered the views (if any) of the appropriate authority, and if the IOPC considers it appropriate to do so, make a determination as to any other matter dealt with in the report,
  - (d) notify the appropriate authority of its determinations,
  - (e) where the IOPC determines that disciplinary proceedings of a form specified in the determination should be brought against a person, direct the appropriate authority to bring those proceedings, and
  - (f) direct the appropriate authority to determine what action (if any) the appropriate authority will in its discretion take (not being action involving the bringing of disciplinary proceedings) in respect of the other matters dealt with in the report and having regard to the IOPC's determinations.
- (4) The appropriate authority must comply with a direction given by the IOPC and must ensure that proceedings, once brought, are proceeded with to a proper conclusion.
- (5) The IOPC may at any time withdraw a direction and the appropriate authority will not be under any obligation in relation to it after the withdrawal of the direction.

- (6) The appropriate authority must keep the IOPC informed if any action it takes in response to a direction and must notify the IOPC of any determination it makes in response.

#### **5.5.22 The IOPC's power to require re-investigation**

- (1) Where –
  - (a) a report on an investigation or re-investigation of a complaint, recordable conduct matter or DSI matter carried out under the direction of the IOPC has been submitted to it, or
  - (b) a report on an investigation or re-investigation of a complaint, recordable conduct matter or DSI matter carried out by a person designated by the IOPC has been submitted to it,

the IOPC may at any time determine that the complaint, recordable conduct matter or DSI matter is to be re-investigated if it is satisfied that there are compelling reasons for doing so.
- (2) Where the IOPC makes a determination that a complaint is to be re-investigated, it must determine that the re-investigation is to take the form of a re-investigation by the IOPC, unless the IOPC determines that it would be more appropriate for the re-investigation to take the form of an investigation by the appropriate authority under the direction of the IOPC, in which case the IOPC must determine that the re-investigation is to take that form.
- (3) Where the IOPC determines that a re-investigation is to take the form of an investigation by the IOPC and, at any time after that, the IOPC determines that it would be more appropriate for the re-investigation to take the form of an investigation by the appropriate authority under the direction of the IOPC, the IOPC may make a further determination (to replace the earlier one).
- (4) Where the IOPC determines that a reinvestigation is to take the form of an investigation by the appropriate authority under the direction of the IOPC, the IOPC must keep under review whether this continues to be the most appropriate form of re-investigation and make a further determination(s) as appropriate.
- (5) The IOPC shall notify any determination and its reasons for making the determination to –
  - (a) the appropriate authority,
  - (b) every person entitled to be kept properly informed in relation to the complaint, recordable conduct matter or DSI matter,
  - (c) where the determination is made in relation to a complaint, the complainant,
  - (d) the person to whose conduct the re-investigation will relate.

### 5.5.23 Action by the PFCC in response to an investigation report

- (1) On receipt of a report of an investigation submitted to the PFCC as the appropriate authority or a copy of a report on an investigation carried out under the supervision of the IOPC sent to the PFCC as the appropriate authority, the PFCC –
  - (a) shall determine whether the conditions set out below are satisfied in respect of the report;
  - (b) if it determines that those conditions are satisfied, shall notify the Director of Public Prosecutions of the determination and send him / her a copy of the report; and
  - (c) shall notify the complainant and every person entitled of its determination and of any action by it in response.
- (2) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.
- (3) The second condition is that –
  - (a) the circumstances are such that, in the opinion of the PFCC, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
  - (b) any matters dealt with in the report fall within any prescribed category of matters,
- (2) In the case of a report falling under (1) above which relates to a recordable conduct matter, the PFCC shall also notify the IOPC of their determination.
- (3) On receipt of such a notification that the PFCC as the appropriate authority has determined that the conditions in (1) above are not satisfied in respect of the report, the IOPC shall make its own determination as to whether these conditions are satisfied and, if it determines that they are satisfied, shall direct the PFCC to notify the Director of Public Prosecutions of the IOPC's determination and to send the Director a copy of the report. It shall be the duty of the PFCC to comply with any such directions given to them.
- (4) On receipt of the report, the PFCC shall also determine –
  - (a) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and
  - (b) whether or not any such person's performance is unsatisfactory, and
  - (c) what action (if any) the PFCC is required, or will in their discretion, take in respect of the matters dealt with in the report.

- (5) In a case where the action to be taken consists of or includes the bringing of disciplinary proceedings, it shall be the duty of the PFCC to ensure that those proceedings, once brought, are proceeded with to a proper conclusion.

#### **5.5.24 The relevant review body**

- (1) Where a complaint has been subject to an investigation by the appropriate authority on its own behalf, the complainant has the right to apply to the relevant review body for a review of the outcome of the complaint.
- (2) The relevant review body in relation to a review is –
  - (a) the IOPC, in a case where the PFCC is the appropriate authority in relation to the relevant complaint, or
  - (b) the PFCC, where the Chief Constable is the appropriate authority in relation to the complaint.
- (3) Where an application for a review is made to the IOPC and the PFCC is the relevant review body in relation to the review, the IOPC must forward the application to the PFCC and notify the person who applied for the review that the PFCC is the relevant review body and the application has been forwarded.
- (4) Where an application for a review is made to the PFCC and the IOPC is the relevant review body in relation to the review, the PFCC must forward the application to the IOPC and notify the person who applied for the review that the IOPC is the relevant review body and the application has been forwarded.

#### **5.5.25 Reviews with respect to an investigation**

- (1) The relevant review body must notify the following of an application for a review:
  - (a) the appropriate authority,
  - (b) every person entitled to be kept properly informed in relation to the complaint, and
  - (c) the person complained against (if any).
- (2) Where the relevant review body so requires on the making of an application for a review, the appropriate authority must provide the relevant review body with a copy of the report of the investigation and such information concerning the appropriate authority's determinations as is described in a notification given by the relevant review body to the appropriate authority.
- (3) On a review applied for, the relevant review body must determine whether the outcome of a complaint is a reasonable and proportionate outcome. In making a determination, the relevant review body may review the findings of the investigation.
- (4) Where the IOPC is the relevant review body and the IOPC finds the outcome is not a reasonable and proportionate outcome, the IOPC may –

- (a) make its own findings (in place of, or in addition to) findings of the investigation;
  - (b) direct that the complaint be re-investigated;
  - (c) make a recommendation to the appropriate authority in respect of anyone serving with the police –
    - (i) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the person's conduct to which the investigation related;
    - (ii) that the person's performance is, or is not, unsatisfactory;
    - (iii) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person's conduct, efficiency or effectiveness to which the investigation related;
    - (iv) that any disciplinary proceedings against the person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified;
  - (d) where the person is no longer serving with the police, make a determination (in place of the determination of the appropriate authority) as to whether there may have been a breach of the Standards of Professional Behaviour that would have justified the bringing of disciplinary proceedings had the person not ceased to be a member of the police force and, if so, whether the breach is so serious that, had the person not ceased to be a member of the police force, it would have justified removal from office;
  - (e) make a recommendation with a view to remedying the dissatisfaction of a complainant, and
  - (f) notify the CPS that it considers that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation relates, and it considers it appropriate for the matters to be considered by the CPS (or they fall within a prescribed category), and provide it with a copy of the report.
- (5) Where the IOPC makes such a recommendation, the appropriate authority must notify the IOPC whether it accepts the recommendation and (if it does) set out in the notification the steps that it is proposing to take to give effect to it.
- (6) Where the PFCC is the relevant review body and the PFCC finds that the outcome is not a reasonable and proportionate outcome, the PFCC may –
- (a) make a recommendation to the appropriate authority that the complaint be re-investigated by the PFCC on their own behalf;
  - (b) where the complaint has not previously been referred to the IOPC, make a recommendation to the appropriate authority that it refers the complaint to the IOPC;

- (c) make a recommendation to the appropriate authority in respect of anyone serving with the police –
    - (i) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the person's conduct to which the investigation related;
    - (ii) that the person's performance is, or is not, unsatisfactory;
    - (iii) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person's conduct, efficiency or effectiveness to which the investigation related;
    - (iv) that any disciplinary proceedings against the person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified;
    - (v) as to whether there may have been a breach of the Standards of Professional Behaviour that would have justified the bringing of disciplinary proceedings had the person not ceased to be a member of the police force or a special constable and, if so, whether the breach is so serious that, had the person not ceased to be a member of the police force or a special constable, it would have justified dismissal.
  - (d) make a recommendation that the appropriate authority provides the CPS with a copy of the report and notifies it that the local policing body considers that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related, and they consider it is appropriate for the matters to be considered by the CPS.
- (7) The relevant review body shall give notice of any determination –
- (a) to the appropriate authority;
  - (b) to the complainant;
  - (c) to every person entitled to be kept properly informed in relation to the complaint; and
  - (d) except in a case where it appears to the relevant review body that to do so might prejudice any re-investigation of the complaint, the person complained against.
- (8) The relevant review body shall give notice of the outcome of any review and of its reasons for the determinations and any directions given to the appropriate authority to –
- (a) the complainant;
  - (b) every person entitled to be kept properly informed in relation to the complaint; and



- (c) except in a case where it appears to the relevant review body that to do so might prejudice any re-investigation of the complaint, the person complained against.
- (9) It shall be the duty of the appropriate authority to comply with any directions given to it.
- (10) In this section, references to the outcome of any complaint do not include the outcome of any criminal or disciplinary proceedings brought in relation to any matter which was the subject of the investigation.

#### **5.5.26 Duties with respect to disciplinary proceedings etc**

- (1) The IOPC may make a recommendation to the appropriate authority in respect of any person serving with the police –
  - (a) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the person's conduct to which the investigation related;
  - (b) that the person's performance is, or is not, unsatisfactory;
  - (c) that action of the form specified in the recommendation is taken in respect of the person's performance;
  - (d) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person's conduct, efficiency or effectiveness to which the investigation related;
  - (e) that any disciplinary proceedings against the person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified;

and it shall be the duty of the appropriate authority to notify the IOPC whether it accepts the recommendation and (if it does) to set out in the notification the steps that it is proposing to take to give effect to it.

- (2) If, after the IOPC has made a recommendation, the appropriate authority does not take steps to secure the full effect is given to the recommendation, the IOPC may direct the appropriate authority to take steps for that purpose, and it shall be the duty of the appropriate authority to comply with the direction.
- (3) The IOPC may at any time withdraw a direction given.

#### **5.6 Duty to monitor all complaints**

- (1) The PFCC is under a duty to monitor all complaints relating to the Essex Police force, its officers and staff.
- (2) The PFCC shall put in place and maintain arrangements for the fulfilment of this duty.

## **Article 6 – Functions of the Essex Police, Fire and Crime Panel**

### **6.1 Functions of the Essex Police, Fire and Crime Panel**

- (1) In accordance with Section 28 of the Police Reform and Social Responsibility Act 2011, there is a Police, Fire and Crime Panel for Essex.
- (2) The Police, Fire and Crime Panel is empowered to maintain a regular check and balance on the performance of the PFCC. It has –
  - (a) the power of veto, by a two-thirds majority of the total Panel membership, over the level of the PFCC's proposed precept;
  - (b) the power of veto, by a two-thirds majority of the total Panel membership, over the PFCC's proposed candidate for Chief Constable;
  - (c) the power to ask His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) for a professional view when the PFCC intends to dismiss a Chief Constable;
  - (d) the power to require relevant reports and information in the PFCC's possession (except those which are operationally sensitive) to enable it to fulfil its statutory obligations;
  - (e) the power to require the PFCC to attend the Panel to answer questions;
  - (f) the power to appoint an acting PFCC where the incumbent PFCC is incapacitated, resigns or is disqualified, and
  - (g) responsibility for complaints about the PFCC, although serious complaints and conduct matters must be passed to the IOPC in line with legislation.
- (3) The functions of the Police, Fire and Crime Panel must be exercised with a view to supporting the effective exercise of the functions of the PFCC within the legal framework.
- (4) In relation to the Police and Crime Plan for Essex, the Police, Fire and Crime Panel must –
  - (a) review the draft police and crime plan, or draft variation, given to the panel by the PFCC, and
  - (b) make a report or recommendations on the draft plan or variation to the PFCC.
- (5) With regard to Annual Reports, the Police, Fire and Crime Panel must -
  - (a) arrange for a public meeting of the panel to be held as soon as practicable after the panel is sent an Annual Report;
  - (b) ask the PFCC, at that meeting, such questions about the Annual Report as members of the panel think appropriate;
  - (c) review the Annual Report, and

- (d) make a report or recommendations on the Annual Report to the Commissioner.
- (6) The Police, Fire and Crime Panel must review or scrutinise decisions and actions taken by the PFCC and make reports or recommendations to the PFCC with respect to the discharge of the PFCC's functions.
- (7) The Police, Fire and Crime Panel must publish any reports or recommendations made to the PFCC. It is for the panel to determine the manner in which such reports or recommendations are to be published.
- (8) Other functions of the Police, Fire and Crime Panel are -
  - (a) Scrutiny of the appointment of a Deputy PFCC, the PFCC's Chief Executive and the PFCC's Chief Finance Officer (see Article 8), and
  - (b) To deal with certain complaints against the PFCC or Deputy PFCC (see subsection 5.4).

## **6.2 Power to require attendance and information**

- (1) The Police, Fire and Crime Panel may require the PFCC, and members of the PFCC's staff, to attend before the panel (at reasonable notice) to answer any question which appears to the panel to be necessary in order for it to carry out its functions.
- (2) Nothing in subsection 6.2(1) requires a member of the PFCC's staff to give any evidence, or produce any document, which discloses advice given to the PFCC by that person.
- (3) The Police, Fire and Crime Panel may require the PFCC to respond in writing (within a reasonable period determined by the panel) to any report or recommendation made by the panel to the PFCC.
- (4) The PFCC must comply with any requirement imposed by the Police, Fire and Crime Panel under subsections 6.2(1) or 6.2(3).
- (5) Members of staff of the PFCC must comply with any requirement imposed on them under Article 6.2(1).
- (6) The Chief Constable retains responsibility for operational matters. If the Panel seeks to scrutinise the PFCC on the PFCC's strategic oversight of an operational matter, the Chief Constable may, where necessary and at reasonable notice, be invited to attend alongside the PFCC to offer factual accounts and clarity (if needed) of the Chief Constable's actions and decisions. The accountability of the Chief Constable remains firmly to the PFCC and not to the Panel.

## **6.3 Suspension of the Police, Fire and Crime Commissioner**

- (1) The Police, Fire and Crime Panel may suspend the PFCC if -
  - (a) the commissioner has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and
  - (b) the offence is one which carries a maximum term of imprisonment exceeding two years.

- (2) The suspension of the PFCC ceases to have effect upon the occurrence of the earliest of these events -
  - (a) the charge being dropped;
  - (b) the PFCC being acquitted of the offence;
  - (c) the PFCC being convicted of the offence but not being disqualified under Article 7 of this Constitution by virtue of the conviction;
  - (d) the termination of the suspension by the Police, Fire and Crime Panel.
- (3) For the purposes of salary, pensions and allowances in respect of times during a period of suspension, the PFCC is to be treated as not holding that office during that suspension.
- (4) In this Article, references to an offence which carries a maximum term of imprisonment exceeding two years are references -
  - (a) to an offence which carries a maximum term in the case of a person who has attained the age of 18 years, or
  - (b) to an offence for which, in the case of such a person, the sentence is fixed by law as life imprisonment.

## **Article 7 – Vacancy in the office of PFCC**

### **7.1 Date of vacancy in the office of PFCC**

- (1) A vacancy in the office of PFCC occurs
  - (a) in the case of a vacancy in consequence of the failure of, or other irregularity in relation to, an election, at the time specified by the Secretary of State in an order made under section 58 of the Police Reform and Social Responsibility Act 2011;
  - (b) in the case of resignation, on receipt of the notice of resignation by the appropriate officer;
  - (c) in the case of death, on the date of death;
  - (d) in any case within subsection 7.1(2), on the date on which the office of PFCC is declared to have been vacated by the High Court or by the appropriate officer (see subsection 7.12 for meaning of “appropriate officer”), as the case may be.
- (2) The cases referred to in Article 7.1(1)(d) are
  - (a) where the person elected as PFCC fails to make and deliver a declaration of acceptance of office in accordance with section 70 of the Police Reform and Social Responsibility Act 2011;
  - (b) where a vacancy arises under section 63 of the Act (incapacity of PFCC: acting PFCC acting for 6 months);
  - (c) where a person becomes disqualified –
    - (i) from being a PFCC, or
    - (ii) from being the PFCC for Essex.

- (3) The appropriate officer must give public notice of a vacancy in the office of PFCC for the Essex police area.
- (4) The appropriate officer must give notice of a vacancy in the office of PFCC to the police area returning officer.
- (5) Any notice of a vacancy must be given as soon as practicable after the date on which the vacancy occurs.
- (6) An election must be held to fill the vacancy.
- (7) If the vacancy occurs within the period of six months ending with the day of the poll at the next ordinary election –
  - (a) no election is to be held in respect of the vacancy, and
  - (b) accordingly, the office is to be left unfilled until that ordinary election.
- (8) In the circumstances described in subsection 7.1(7), the Police, Fire and Crime Panel will appoint an acting commissioner to act as the PFCC in the intervening period, according to the procedure set out in subsection 7.3.

## **7.2 Resignation of the PFCC**

- (1) The PFCC may at any time resign office by giving notice to the appropriate officer.
- (2) Any such resignation takes effect on the appropriate officer's receipt of the notice.

## **7.3 Appointment of an acting commissioner**

- (1) The Police, Fire and Crime Panel must appoint a person to act as the PFCC for Essex (the "acting commissioner") if -
  - (a) no person holds the office of PFCC for Essex,
  - (b) the PFCC for Essex is incapacitated, or
  - (c) the PFCC for Essex is suspended in accordance with subsection 6.3.
- (2) The Police, Fire and Crime Panel may appoint a person as acting commissioner only if the person is a member of the PFCC's staff at the time of the appointment.
- (3) In appointing a person as acting commissioner in a case where the PFCC is incapacitated, the Police, Fire and Crime Panel must have regard to any representations made by the commissioner in relation to the appointment.
- (4) All the functions of the PFCC are exercisable by an acting commissioner, apart from issuing or varying a police and crime plan under subsection 3.3.
- (5) Any property or rights vested in the PFCC may be dealt with by the acting commissioner as if vested in the acting commissioner.
- (6) The appointment of an acting commissioner ceases to have effect upon the occurrence of the earliest of these events –
  - (a) the election of a person as PFCC;

- (b) the termination by the Police, Fire and Crime Panel, or by the acting commissioner, of the appointment of the acting commissioner;
  - (c) in a case where the acting commissioner is appointed because the PFCC is incapacitated, the commissioner ceasing to be incapacitated;
  - (d) in a case where the acting commissioner is appointed because the PFCC is suspended, the commissioner ceasing to be suspended.
- (7) In a case where –
- (a) the acting commissioner is appointed because the PFCC is incapacitated or suspended, and
  - (b) a vacancy subsequently occurs in the office of PFCC,
- the occurrence of that vacancy does not affect the appointment of the acting commissioner (and accordingly subsection 7.3(6)(c) or (d) does not apply).
- (8) For the purposes of this Article –
- (a) a PFCC is incapacitated if the commissioner is unable to exercise the functions of the commissioner, except where the commissioner is unable to exercise those functions only because the commissioner has yet to give a declaration of office under section 70 of the Police Reform and Social Responsibility Act 2011; and
  - (b) it is for the Police, Fire and Crime Panel for Essex to determine whether the PFCC for Essex is incapacitated.
- (9) Subject to subsection 7.3(4), a reference to any enactment to a PFCC includes a reference to an acting commissioner.

#### **7.4 Vacancy where the acting commissioner acts for the maximum of six months**

- (1) Subsection 7.3(2) applies where –
- (a) an acting commissioner is appointed under subsection 7.3 to act for the PFCC for Essex because the PFCC is incapacitated, and
  - (b) the PFCC for Essex does not cease to be incapacitated during the period of six months beginning on the day on which the acting commissioner is appointed.
- (2) At the end of that six month period –
- (a) the PFCC ceases to be the PFCC, and
  - (b) accordingly the office of PFCC for Essex becomes vacant.

#### **7.5 Disqualification from election as PFCC**

- (1) A person is disqualified from being elected to the office of PFCC for Essex at any election unless –
- (a) the person has attained the age of 18 when nominated as a candidate at the election, and

- (b) on each relevant day, the person is registered in the register of local government electors for an electoral area in respect of an address in the Essex police area.
- (2) In this Article, “relevant day”, in relation to a person who is a candidate at an election, means –
  - (a) the day on which the person is nominated as a candidate at the election, and
  - (b) the day of the poll at the election.
- (3) A person is disqualified from being elected to the office of PFCC for Essex at an ordinary election if the person has been nominated as a candidate for election as a PCC / PFCC for any other police area at that election.
- (4) A person is disqualified from being elected to the office of PFCC for Essex at an election other than an ordinary election if -
  - (a) the person is the PCC / PFCC for any other police area, or
  - (b) the person has been nominated as a candidate for election as a PCC / PFCC for any other police area for which an election is held on the same day.

#### **7.6 Disqualification from election or holding office as PFCC – police grounds**

- (1) A person is disqualified from being elected as, or being, a PFCC if the person
  - (a) is disqualified from being a member of the House of Commons under section 1(1)(d) of the House of Commons Disqualification Act 1975 (members of police forces for police areas in the United Kingdom);
  - (b) is a member of:
    - (i) the British Transport Police Force;
    - (ii) the Civil Nuclear Constabulary;
  - (c) is a Special Constable appointed:
    - (i) under section 27 of the Police Act 1996 for a police area or the City of London police area;
    - (ii) under section 25 of the Railways and Transport Safety Act 2003 (British Transport Police Force);
  - (d) is a member of staff of the Chief Officer of police of any police force maintained for a police area;
  - (e) is a member of staff of:
    - (i) a Police and Crime Commissioner or a Police, Fire and Crime Commissioner;
    - (ii) the Mayor’s Office for Policing and Crime;
  - (f) is the Mayor of London;

- (g) is a member of the Common Council of the City of London or a member of staff of that Council in its capacity as a police authority;
- (h) is a member (including a member who is chairman or Chief Executive), or member of staff, of:
  - (i) the British Transport Police Authority;
  - (ii) the Civil Nuclear Police Authority;
  - (iii) the Independent Office for Police Conduct;
  - (iv) the Serious Organised Crime Agency
- (i) holds any employment in an entity which is under the control of –
  - (i) a local policing body;
  - (ii) any body mentioned in paragraph (h);
  - (iii) the Chief Officer of police for any police force maintained for a police area or the City of London police area;
  - (iv) the Chief Officer of police for any police force mentioned in paragraph (b)

in accordance with regulations made by the Secretary of State.

- (2) In this Article, “member of staff”, in relation to any person (“A”), includes a person (“B”) who works for A:
  - (a) under a contract of employment,
  - (b) under a contract for services, or
  - (c) in accordance with arrangements made between B’s employer and A;
 and for this purpose B works for A if B provides services for A under the direction and control of A.
- (3) In this Article, an entity (“E”) -
  - (a) is under the control of a local policing body in the circumstances specified in subsection (4);
  - (b) is under the control of a body mentioned in subsection 1(h) in the circumstances specified in subsection (5);
  - (c) is under the control of a chief officer of police in the circumstances specified in subsection (6)
- (4) The circumstances specified in this subsection are that appointments to E are or may be made or confirmed by –
  - (a) a police and crime commissioner,
  - (b) the Mayor’s Office for Policing and Crime
  - (c) the Common Council of the City of London in its capacity as a police authority,



- (d) a committee or sub-committee of the Common Council in that capacity, or
- (e) a joint committee on which a person or body referred to in any of (a) to (c) above is represented
- (5) The circumstances specified in this subsection are that appointments to E are or may be made or confirmed by any of the bodies mentioned in section 65(1)(h) of the Police Reform and Social Responsibility Act 2011.
- (6) The circumstances specified in this subsection are that appointments to E are or may be confirmed by a chief officer of police.
- (7) It does not matter for the purposes of subsections (4) to (6) whether the appointments are made or confirmed by the person or body referred to acting alone or jointly with another person or body.
- (8) Subsection 1(e) does not prevent a Deputy PFCC –
  - (a) from being elected as PFCC at an ordinary election of PCCs / PFCCs; or
  - (b) from being elected at an election held to fill a vacancy in the office of PFCC if, on the day on which the person is nominated as a candidate at the election and at all times between that day and the declaration of the result of the election, the deputy is acting as PFCC under subsection 7.3.

## **7.7 Disqualification from election or holding office as PFCC – other grounds**

- (1) A person is disqualified from being elected as, or being, a PFCC unless the person satisfies the citizenship condition set out in section 68 of the Police Reform and Social Responsibility Act 2011.
- (2) A person is disqualified from being elected as, or being, a PFCC if the person -
  - (a) is disqualified from being a member of the House of Commons under section 1(1)(a) to (c) of the House of Commons Disqualification Act 1975 (judges, civil servants, members of the armed forces), or
  - (b) is a member of the legislature of any country or territory outside the United Kingdom.
- (3) A person is disqualified from being elected as, or being, a Police, Fire and Crime Commissioner if:
  - (a) the person is the subject of:
    - (i) a debt relief restrictions order under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986;
    - (ii) an interim debt relief restrictions order under paragraph 5 of that Schedule;
    - (iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to that Act;

- (iv) a bankruptcy restrictions interim order under paragraph 5 of that Schedule;
  - (b) a debt relief restrictions undertaking has effect in respect of the person under paragraph 7 of Schedule 4ZB to that Act;
  - (c) the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man, of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence); or
  - (d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House of Commons, under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices).
- (4) For the purposes of Article 7.7(3)(c) -
- (a) “imprisonable offence” means an offence -
    - (i) for which a person who has attained the age of 18 years may be sentenced to a term of imprisonment, or
    - (ii) for which, in the case of such a person, the sentence is fixed by law as life imprisonment;
  - (b) a person is to be treated as having been convicted -
    - (i) on the expiry of the ordinary period allowed for an appeal or application in respect of the conviction, or
    - (ii) if an appeal or application is made in respect of the conviction, when the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution.
- (5) A person is disqualified from being elected as, or being, PFCC if the person:
- (a) is a member of staff of a relevant council
    - (i) under a contract of employment,
    - (ii) under a contract for services, or
    - (iii) in accordance with arrangements made between person B’s employer and person A, and for this purpose B works for A if B provides services for A under the direction and control of A
  - or
  - (b) holds any employment in an entity which is under the control of a relevant council.
  - (c) Relevant councils are those councils for an area which, or any part of which, lies within the Essex police area:
    - (i) a County Council;
    - (ii) a County Borough Council;
    - (iii) a District Council;
    - (iv) a Parish or Town Council;

- (v) a Community Council
- (6) For the purposes of this Article, an entity (“E”) is under the control of a relevant council in the circumstances specified in subsections (7) or (8).
- (7) The circumstances specified in this subsection are that appointments or elections to E are or may be made or confirmed by –
  - (a) a relevant council (as defined above),
  - (b) a committee or sub-committee of a relevant council,
  - (c) a joint committee on which a relevant council is represented, or
  - (d) a person appointed or elected by E to a council or committee referred to in any of (a) to (c) above.
- (8) The circumstances specified in this section are that E is a company which, in accordance with Part 5 of the Local Government and Housing Act 1989 (other than section 73), is under the control of a relevant council.
- (9) Nothing in Article 7.7(5) should be taken to disqualify a person by virtue of being a teacher, or otherwise employed, in a school or other educational institution maintained as assisted by a relevant council.

#### **7.8 Disqualification of a person holding office as PFCC**

- (1) A person becomes disqualified from being a PFCC upon becoming a member of:
  - (a) the House of Commons;
  - (b) the Scottish Parliament;
  - (c) the National Assembly for Wales;
  - (d) the Northern Ireland Assembly;
  - (e) the European Parliament

#### **7.9 Validity of acts despite any disqualifications**

- (1) The acts of the person elected as PFCC for Essex who acts in that office are, despite any disqualification -
  - (a) from being, or being elected as, a PFCC, or
  - (b) from being, or being elected as PFCC for Essex,
 as valid and effectual as if the person had not been so disqualified.

#### **7.10 Declaration of acceptance of office of PFCC**

- (1) A person elected to the office of PFCC for Essex may not act in that office unless the person has -

- (a) made a declaration of acceptance of the office in a form specified in Schedule 11 to this Constitution, and
  - (b) delivered the declaration to the appropriate officer,
- in each case, when not ineligible by virtue of Article 7.10(4).
- (2) If the person fails to make and deliver a declaration in accordance with Article 7.10(1) within the period of two months beginning with the day after the election, the office of PFCC for Essex becomes vacant at the end of the period.
  - (3) Any declaration must be made before:
    - (a) the appropriate officer;
    - (b) a Justice of the Peace or Magistrate in the United Kingdom, the Channel Islands or the Isle of Man, or
    - (c) a Commissioner appointed to administer oaths in the Senior Courts.
  - (4) A person is ineligible to make or give a declaration of acceptance of office in respect of the office of PFCC for Essex at any time when the person is a member of:
    - (a) the House of Commons;
    - (b) the Scottish Parliament;
    - (c) the National Assembly for Wales;
    - (d) the Northern Ireland Assembly;
    - (e) the European Parliament.
  - (5) No salary, and no payment towards the provision of superannuation benefits, can be paid under the Police Reform and Social Responsibility Act 2011 to or in respect of the PFCC until the PFCC has complied with the requirements of Article 7.10(1).
  - (6) Article 7.10(5) does not affect any entitlement of the PFCC to payments in respect of the period before the PFCC complies with the requirements of Article 7.10(1) once the PFCC has complied with those requirements.

#### **7.11 The “Appropriate Officer” for the purposes of Article 7**

- (1) The “Appropriate Officer” for the purposes of Article 7 is the Head of Paid Service of the local authority designated for the Essex police area by the Secretary of State.
- (2) The “Head of Paid Service” means the person designated by the Council under section 4 (1) (a) of the Local Government Act 1989.

### **Article 8 - Senior Staff and Statutory Appointments**

#### **8.1 Chief Executive and Monitoring Officer and Chief Finance Officer**

- (1) The PFCC must appoint -

- (a) a person to be the Head of Paid Service for the PFCC's staff (Chief Executive), who will also act as the Monitoring Officer; and
  - (b) a person to be responsible for the proper administration of the PFCC's financial affairs (Chief Finance Officer), who must be a member of an accountancy body specified in section 113 of the Local Government Finance Act 1988.
- (2) The "Head of Paid Service" for the PFCC's staff means the person designated by the Commissioner under section 4 (1) (a) of the Local Government Act 1989.
  - (3) The Monitoring Officer will fulfil the duties outlined in section 5 of the Local Government and Housing Act 1989 for the PFCC.
  - (4) The Chief Finance Officer will fulfil the duties outlined in section 151 Local Government Act 1972 for the PFCC.
  - (5) The PFCC must appoint a person to act as Chief Executive or Chief Finance Officer, if and for as long as –
    - (a) that post is vacant, or
    - (b) the holder of that post is, in the PFCC's opinion, unable to carry out the duties of that post.
  - (6) A reference in an enactment to the Chief Executive or Chief Finance Officer of the PFCC includes a reference to a person acting as Chief Executive or Chief Finance Officer in accordance with subsection 8.1(1).

## **8.2 Appointment of other staff**

- (1) The PFCC may appoint such other staff as they think appropriate to enable him / her to exercise the functions of PFCC.
- (2) The staff of the PFCC are directly accountable to the directly elected holder of that office to enable the PFCC to exercise its functions.

## **8.3 Senior post vacancies**

- (1) The PFCC –
  - (a) will draw up a statement specifying -
    - (i) the duties of the officer concerned
    - (i) any qualifications or qualities sought in the person to be appointed
  - (b) will make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) will make arrangements for a copy of the statement mentioned in (a) above to be sent to any person on request.
- (2) Where a post has been advertised as provided in (1) above the PFCC will -
  - (a) Interview all qualified applicants for the post, or

- (b) select a shortlist of such qualified applicants and interview those included on the shortlist.
- (3) Where no qualified person has applied, the PFCC will make further arrangements for advertisement in accordance with (1) above.
- (4) The PFCC must notify the Police, Fire and Crime Panel of each proposed senior appointment and the PFCC must also notify the Panel of the following information:
  - (a) the name of the person whom the PFCC is proposing to appoint (“the candidate”);
  - (b) the criteria used to assess the suitability of the candidate for the appointment;
  - (c) why the candidate satisfies those criteria; and
  - (d) the terms and conditions on which the candidate is to be appointed.
- (5) The panel must review the proposed senior appointment.
- (6) The panel must make a report to the PFCC on the proposed senior appointment. The report must include a recommendation to the PFCC as to whether or not the candidate should be appointed.
- (7) The panel must comply with subsections 8.3(5) and (6) within the period of three weeks beginning with the day on which the panel receives the notification from the PFCC of the proposed senior appointment. In calculating the period of three weeks, any relevant post-election period is to be ignored. For that purpose, “relevant post-election period” means the period that –
  - (a) begins with the day of the poll at an ordinary election of the PFCC under section 50 of the Police Reform and Social Responsibility Act 2011, and
  - (b) ends with the day on which the person elected as PFCC delivers a declaration of acceptance of office under section 70 of the Police Reform and Social Responsibility Act 2011.
- (8) The Police, Fire and Crime Panel must hold a confirmation hearing before making a report and recommendation to the PFCC in relation to a proposed senior appointment. For the purposes of this Article, a “confirmation hearing” is a meeting of the panel, held in public, at which the candidate is requested to appear for the purpose of answering questions relating to the appointment.
- (9) References in this Article to a person appearing at a meeting of the panel are references to the person –
  - (a) attending the meeting in person, or
  - (b) not attending the meeting in person but participating in the proceedings at the meeting by any means that enable the person to hear, and be heard in, those proceedings as they happen.

- (10) The panel must publish the report to the PFCC made under this Article. It is for the panel to determine the manner in which the recommendation is to be published.
- (11) The PFCC may accept or reject the Panel's recommendation as to whether or not the candidate should be appointed.
- (12) The PFCC must notify the Panel of the decision whether to accept or reject the recommendation.

#### **8.4 Appointment of a Deputy Police, Fire and Crime Commissioner**

- (1) The PFCC may:
  - (a) appoint a person as the Deputy PFCC, and
  - (b) subject to Article 3 arrange for the Deputy PFCC to exercise any function of the PFCC.
- (2) The PFCC must notify the Police, Fire and Crime Panel of the proposed appointment and the PFCC must also notify the Panel of the following information:
  - (a) The name of the person whom the PFCC is proposing to appoint (“the candidate”);
  - (b) the criteria used to assess the suitability of the candidate for the appointment;
  - (c) why the candidate satisfies those criteria; and
  - (d) the terms and conditions on which the candidate is to be appointed.
- (3) The panel must review the proposed appointment.
- (4) The panel must make a report to the PFCC on the proposed appointment. The report must include a recommendation to the PFCC as to whether or not the candidate should be appointed.
- (5) The panel must comply with subsections 8.3(3) and (4) within the period of three weeks beginning with the day on which the panel receives the notification from the PFCC of the proposed appointment. In calculating the period of three weeks, any relevant post-election period is to be ignored. For that purpose, “relevant post-election period” means the period that –
  - (a) begins with the day of the poll at an ordinary election of the PFCC under section 50 of the Police Reform and Social Responsibility Act 2011, and
  - (b) ends with the day on which the person elected as PFCC delivers a declaration of acceptance of office under section 70 of the Police Reform and Social Responsibility Act 2011.
- (6) The Police, Fire and Crime Panel must hold a confirmation hearing before making a report and recommendation to the PFCC in relation to a proposed appointment. For the purposes of this Article, a “confirmation hearing” is a meeting of the panel, held in public, at which the candidate is requested to appear for the purpose of answering questions relating to the appointment.

- (7) References in this Article to a person appearing at a meeting of the panel are references to the person –
  - (a) attending the meeting in person, or
  - (b) not attending the meeting in person but participating in the proceedings at the meeting by any means that enable the person to hear, and be heard in, those proceedings as they happen.
- (8) The panel must publish the report to the PFCC made under this Article. It is for the panel to determine the manner in which the recommendation is to be published.
- (9) The PFCC may accept or reject the Panel's recommendation as to whether or not the candidate should be appointed.
- (10) The PFCC must notify the Panel of the decision whether to accept or reject the recommendation.

### **8.5 Deputy PFCC – persons who may not be appointed**

- (1) None of the following may be appointed as the Deputy PFCC:
  - (a) a person who has not attained the age of 18 on the day of the appointment;
  - (b) a person who is subject to a relevant disqualification;
  - (c) a Member of the House of Commons;
  - (d) a member of the European Parliament;
  - (e) a member of the National Assembly for Wales;
  - (f) a member of the Scottish Parliament;
  - (g) a member of the Northern Ireland Assembly.
- (2) The terms and condition of a person appointed as the Deputy PFCC must ensure that the term of office ends no later than the sixth day after the day of the poll at the next ordinary election of the PFCC (that is, the day on which the term of office of the appointing PFCC would, if there were no vacancy in the office before then, end).
- (3) The terms and conditions must also provide for the Deputy PFCC's appointment to end when, following an election held to fill a vacancy in the office of the appointing PFCC, the person makes and delivers a declaration of acceptance of office.
- (4) Subject to subsections (2) and (3) above, the terms and conditions may also make such provision about termination as the appointing PFCC thinks appropriate.
- (5) Section 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the Deputy PFCC.
- (6) For the purposes of this Article, a person is subject to a relevant disqualification if the person is disqualified from being elected as, or being, a PFCC under –



- (a) section 65(1) of the Police Reform and Social Responsibility Act 2011 (police officers, police-related employment etc.), other than paragraph (e)(ii); or
- (b) section 66(1), (3) (a) (iii) or (iv), (3) (c) or (3) (d) of the Act (citizenship, bankruptcy, criminal convictions and corrupt or illegal election practices).

## **8.6 Chief Executive**

- (1) The Chief Executive (designated Head of Paid Service for the PFCC's staff under Section 4 of the Local Government and Housing Act 1989 and designated Monitoring Officer under Section 5 of the Local Government and Housing Act 1989) shall have the following functions and areas of responsibility -
  - (a) Overall corporate management;
  - (b) Overall operational responsibility (including overall management responsibility for all staff);
  - (c) Strategic development and performance of the office for the PFCC;
  - (d) Provision of professional advice to the PFCC in the decision-making process;
  - (e) Responsibility for a system of record keeping for all decisions of the PFCC;
  - (f) Representing the PFCC on partnerships and external bodies (as required)
- (2) Where s/he considers it appropriate to do so, the Chief Executive (in his / her capacity as head of paid service for the PFCC's staff) will prepare a report to the PFCC and the Essex Police, Fire and Crime Panel setting out any proposals with respect to –
  - (a) the manner in which the discharge of the PFCC's functions is co-ordinated;
  - (b) the number and grades of staff required by the PFCC for the discharge of their functions;
  - (c) the organisation of the PFCC's staff; and
  - (d) the appointment and proper management of the PFCC's staff.
- (3) It shall be the duty of the PFCC to consider any report under this section by the head of paid service for the PFCC's staff, and to do so no later than three months after the PFCC is sent a copy of the report.

## **8.7 Functions of the Monitoring Officer**

- (1) The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by the PFCC, the Chief Constable, their staff and the public.

- (2) The Monitoring Officer will ensure that the list of all major policies and strategies set out in Schedule 15 is updated regularly and that ownership of the plan or policy is attributed to the appropriate officer.
- (3) After consulting with the Chief Finance Officer, the Monitoring Officer will report to the PFCC and to the Police, Fire and Crime Panel if he / she considers that any proposal, decision or omission by the PFCC, by any committee or sub-committee of the PFCC, by any person holding any office or employment under the PFCC or by any joint committee on which the PFCC is represented has given rise, is likely to or would give rise to a contravention of any enactment, rule of law or of any code of practice made or approved by or under any enactment.
- (4) It shall be the duty of the PFCC to consider any report under this section by a monitoring officer or his / her deputy no later than three months after the PFCC is sent a copy of the report.
- (5) Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (6) The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct, including through provision of support to the Strategic Board.
- (7) The Monitoring Officer will ensure that decisions of the PFCC, together with the reasons for those decisions and relevant staff reports and background papers are made publicly available as soon as possible.
- (8) The Monitoring Officer will be the primary qualified person with regard to the disclosure of exempt information under Section 36 of the Freedom of Information Act 2000. In the absence of the Monitoring Officer, responsibility for carrying out the function will fall to the Deputy Monitoring Officer.
- (9) The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget to the PFCC.
- (10) Where requested so do to, the Monitoring Officer will exercise powers and duties delegated by the Police, Fire and Crime Panel in relation to complaints against the PFCC and Deputy PFCC. This may include the receipt of complaints, the recording of them and notification to the Police, Fire and Crime Panel in accordance with the relevant regulations.
- (11) The duties of the PFCC's monitoring officer under this section shall be performed by him / her personally or, where he / she is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.
- (12) The Monitoring Officer cannot be the Chief Finance Officer.

## **8.8 Functions of the Section 151 Officer**

- (1) The Chief Finance Officer has the responsibility for the administration of the PFCC's financial affairs under section 151 of the Local Government Act

1972, section 73 of the Local Government Act 1985 and section 112 of the Local Government Finance Act 1988.

- (2) As set out in subsection 4.10, after consulting with the Chief Executive, the Chief Finance Officer will report to the PFCC and the PFCC's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the PFCC is about to enter an item of account unlawfully.
- (3) The Chief Finance Officer will have responsibility for the administration of the financial affairs of the PFCC and ensure maintenance of an efficient and effective internal audit function.
- (4) The Chief Finance Officer will take responsibility for the strategic direction and scrutiny of the budget for the PFCC.
- (5) The Chief Finance Officer will contribute to the corporate management of the office of the PFCC, in particular through the provision of professional financial advice.
- (6) The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and the budget and will support and advise the PFCC and their staff in their respective roles.
- (7) The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (8) The Chief Finance Officer shall not be the Monitoring Officer.
- (9) In carrying out their functions, the Chief Finance Officer shall have regard to section 17 ss (4) and (5) of the Police Reform and Social Responsibility Act 2011 to ensure that in carrying out its functions the PFCC has regard to and undertakes their financial governance in accordance with any financial code of practice issued by the Secretary of State.

#### **8.9 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

- (1) The PFCC will provide to the Monitoring Officer and Section 151 Officer such staff, accommodation and other resources as are in the opinion of the Monitoring Officer and Section 151 Officer sufficient to allow their duties to be performed.

#### **8.10 Ability to appoint deputies**

- (1) The Chief Executive and the Chief Finance Officer shall have the ability to appoint deputies in accordance with the Local Government and Housing Act 1989.

#### **8.11 Disqualification and political restriction of officers and staff**

- (1) Every member of staff of the PFCC, except for a Deputy PFCC, shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority.

- (2) Every member of staff of the PFCC, except for a Deputy PFCC, shall also be disqualified for membership of the House of Commons.
- (3) The terms of appointment or conditions of employment of every member of staff of the PFCC, except for a Deputy PFCC, shall be deemed to incorporate such requirements for restricting their political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.

## **8.12 Staff – General provisions**

- (1) Every appointment of a person to a paid office or employment under the PFCC (other than to the position of Deputy PFCC) shall be made on merit, subject to the provisions of any legislation relating to equality and diversity in place at the time of the appointment.
- (2) The recruitment, selection and dismissal of staff will comply with the officer employment rules.
- (3) Staff will comply with the staff code of conduct.
- (4) The functions set out within this Article are in addition to those delegations to the Chief Executive and Monitoring Officer and the Chief Finance Officer set out within Schedule 5 to this Constitution.
- (5) All staff shall have regard to the seven principles of public life as set out in Article 5. All staff shall be politically restricted (as per schedule 16 of Police Reform and Social Responsibility Act 2011).
- (6) The Chief Executive and Chief Finance Officer will:
  - (i) Contribute to the corporate management of the office of the PFCC;
  - (ii) Represent and promote the office of the PFCC securing high quality services that demonstrate best value;
  - (iii) Develop partnership working;
  - (iv) Appoint persons to act as Deputy Chief Executive and Deputy Chief Finance Officer in their absence or inability to act.

## **8.13 Appointment, suspension and removal of the Chief Constable and Senior Police Staff**

### **8.13.1 Appointment of the Chief Constable**

- (1) The PFCC is to appoint the Chief Constable for Essex.
- (2) The PFCC must not appoint a person to be the Chief Constable unless –
  - (a) that person is eligible for appointment, and
  - (b) the end of the confirmation process has been reached.
- (3) A person is eligible for appointment if the person is or has been –
  - (a) a constable in any part of the United Kingdom, or

- (b) a police officer in an approved overseas police force, of at least the approved rank.
- (4) An “approved overseas police force” is a police force which –
  - (a) is in a country or territory outside the United Kingdom designated by regulations made by the Secretary of State, and
  - (b) is designated in relation to that country or territory by the regulations.
- (5) The “approved rank” for an approved overseas police force is the rank which is designated as the approved rank for that police force by the regulations.
- (6) The PFCC must notify the Police, Fire and Crime Panel of each proposed appointment of a Chief Constable.
- (7) The PFCC must also notify the Police, Fire and Crime Panel of the following information –
  - (a) the name of the person whom the PFCC is proposing to appoint (“the candidate”);
  - (b) the criteria used to assess the suitability of the candidate for the appointment;
  - (c) why the candidate satisfies those criteria; and
  - (d) the terms and conditions on which the candidate is to be appointed.
- (8) The Police, Fire and Crime Panel must review the proposed appointment.
- (9) The Police, Fire and Crime Panel must make a report to the PFCC on the proposed appointment. The report must include a recommendation to the PFCC as to whether or not the candidate should be appointed.
- (10) The panel must comply with subsections 8.13.1(8) and (9) within the period of three weeks beginning with the day on which the panel receives notification from the PFCC of the proposed appointment. In calculating the period of three weeks, any relevant post-election period is to be ignored.
- (11) For the purpose of subsection 8.13.1(10), “relevant post-election period” means the period that –
  - (a) begins with the day of the poll at an ordinary election of the PFCC under section 50 of the Police Reform and Social Responsibility Act 2011, and
  - (b) ends with the day on which the person elected as PFCC delivers a declaration of acceptance of office under section 70 of the Police Reform and Social Responsibility Act 2011.
- (12) The panel must publish its report to the PFCC. It is for the panel to determine the manner in which the recommendation is published.
- (13) The Police, Fire and Crime Panel must hold a confirmation hearing –

- (a) before making a report under subsection 8.13.1(9) to the PFCC in relation to a proposed appointment of a chief constable, and
  - (b) before making a recommendation under subsection 8.13.1(9) or vetoing an appointment (see subsections 8.12.1 (14) – (18)).
- (14) For the purposes of this Article, a “confirmation hearing” is a meeting of the panel, held in public, at which the candidate is requested to appear for the purpose of answering questions relating to the appointment.
- (15) References in this Article to a person appearing at a meeting of the panel are references to the person –
  - (a) attending the meeting in person, or
  - (b) not attending the meeting in person but participating in the proceedings at the meeting by any means that enable the person to hear, and be heard in, those proceedings as they happen.
- (16) If the Police, Fire and Crime Panel does not veto the proposed appointment of a candidate, the PFCC may accept or reject the panel’s recommendation as to whether or not the candidate should be appointed, and must notify the panel of the decision whether to accept or reject the recommendation.
- (17) The Police, Fire and Crime Panel may, having reviewed the proposed appointment, veto the appointment of a candidate. In this case, the report made under subsection 8.13.1(9) must include a statement that the panel has vetoed it.
- (18) References in this Article to the Police, Fire and Crime Panel vetoing the appointment of a candidate are references to the panel making a decision, by the required majority, that the candidate should not be appointed as Chief Constable. For that purpose, the panel makes that decision by the required majority if at least two-thirds of the persons who are members of the panel at the time when the decision is made vote in favour of making that decision.
- (19) The panel’s power of veto is exercisable in relation to a proposed appointment only during the period of three weeks referenced in subsection 8.13.1(10).
- (20) If the Police, Fire and Crime Panel vetoes the appointment of a candidate the PFCC must not appoint that candidate as chief constable, subject to regulations referred to in subsection 8.13.1 (31) to (34).
- (21) Where the panel exercises its power to veto a proposed candidate under paragraph 5 of Schedule 8 to the Police Reform and Social Responsibility Act 2011, the PFCC shall propose another person for appointment as Chief Constable (“a reserve candidate”) by notifying the panel of the following information:
  - (a) the name of the reserve candidate;
  - (b) the criteria used to assess the suitability of the reserve candidate for the appointment;
  - (c) why the reserve candidate satisfies those criteria; and

- (d) the terms and conditions on which the reserve candidate is to be appointed.
- (22) Within the period of three weeks beginning with the day on which the panel receives notification under subsection 8.13.1(21), the panel shall –
  - (a) review the proposed appointment; and
  - (b) make a report to the PFCC on the proposed appointment.
- (23) Before making a report under subsection 8.13.1(22)(b), the panel must hold a confirmation hearing as set out in subsections 8.13.1 (13) – (15).
- (24) The report made under subsection 8.13.1(22)(b) must include a recommendation to the PFCC as to whether or not the reserve candidate should be appointed.
- (25) The panel must publish the report made under subsection 8.13.1(22)(b).
- (26) In calculating the period of three weeks for the purposes of subsection 8.13.1(22), any relevant post-election period (as defined in subsection 8.13.1 (11)) is to be ignored.
- (27) On receiving a report under subsection 8.13.1(22), the PFCC shall –
  - (a) have regard to the report (including the recommendation in the report); and
  - (b) notify the panel of its decision as to whether it accepts or rejects the recommendation.
- (28) The PFCC may then either appoint the reserve candidate as Chief Constable or propose another person for appointment as Chief Constable.
- (29) Where another person is proposed for appointment as Chief Constable under subsection 8.13.1(28), the person is treated for the purposes of this Article as a reserve candidate.
- (30) The end of the confirmation process is reached -
  - (a) in a case where the Police, Fire and Crime Panel does not veto the appointment of a candidate, when the period of three weeks referred to in subsection 8.13.1(10) has ended without the panel having given the PFCC any report on the proposed appointment, or when the PFCC notifies the panel of the decision whether or not to accept the panel's recommendation in relation to the appointment; or
  - (b) in a case where the Police, Fire and Crime Panel vetoes the appointment of a candidate, when either a period of three weeks since the confirmation hearing has elapsed without the panel having given the PFCC any report on the proposed appointment, or when the PFCC gives the notification mentioned in subsection 8.13.1(27)(b).
- (31) The above provisions and Schedule 9 to this Constitution are subject to regulations under Section 50 of the Police Act 1996.
- (32) The Secretary of State may make regulations about the steps to be taken and the procedures to be followed in the appointment of Chief

Constables. Such regulations may, in particular, make provision about time limits applicable in taking such steps or following procedures.

- (33) The regulations may also make provision about limits on who may be considered for appointment. That includes provision about limiting consideration for appointment to some or all of the persons already considered as part of the process by which a rejected candidate was selected for appointment.
- (34) The regulations may confer functions on –
  - (a) the PFCC,
  - (b) the Police, Fire and Crime Panel,
  - (c) the Secretary of State, or
  - (d) any other person,including functions involving the exercise of a discretion.
- (35) An appointment to the rank of Chief Constable shall be for a fixed term of a maximum of five years. An appointment for a fixed term may be extended, by agreement of the person who made the appointment and the person appointed, for a further term of a maximum of three years and for subsequent terms each of a maximum of one year.
- (36) Subsection (35) is without prejudice to any provision whereby a term of appointment comes to an end on the conclusion of disciplinary proceedings or transfer to another police force and regulation 14 (retirement) of the Police Regulations 2003.

### **8.13.2 Suspension and removal of the Chief Constable**

- (1) The PFCC may suspend the Chief Constable for Essex
- (2) The PFCC may call upon the Chief Constable to resign or retire.
- (3) The Chief Constable must retire or resign if called upon to do so by the PFCC.
- (4) If the PFCC suspends the Chief Constable from duty, they must notify the Police, Fire and Crime Panel for Essex of the suspension.
- (5) The PFCC must not call upon the Chief Constable for Essex to resign or retire until the end of the scrutiny process (as defined in subsection 8.13.2 (20)) has been reached.
- (6) The PFCC must give the Chief Constable a written explanation of the reasons why they are proposing to call for their retirement or resignation.
- (7) The PFCC must give the Police, Fire and Crime Panel –
  - (a) written notification that the PFCC is proposing to call upon the Chief Constable to retire or resign; and
  - (b) a copy of the reasons given to the Chief Constable in accordance with subsection 8.13.2(6).



- (8) The PFCC must give the Chief Constable the opportunity to make written representations about the proposal to call for their resignation or retirement.
- (9) The PFCC must –
- (a) consider any written representations made by the Chief Constable; and
  - (b) give the Police, Fire and Crime Panel for Essex a copy of such representations made by the Chief Constable, as soon as practicable after the PFCC is given them.
- (10) If, after complying with subsections 8.13.2 (6) – (9), the PFCC is still proposing to call upon the Chief Constable to retire or resign, s/he must notify –
- (a) the Chief Constable, and
  - (b) the Police, Fire and Crime Panel for Essex
- that s/he is still proposing to call upon the Chief Constable to retire or resign.
- (11) The panel must then make a recommendation to the PFCC as to whether or not the PFCC should call for the retirement or resignation. The recommendation must be given to the PFCC in writing before the end of the period of six weeks beginning with the day on which the panel receives the notification under subsection 8.13.2(7).
- (12) Before making the recommendation, the panel –
- (a) may consult the chief inspector of constabulary, and
  - (b) must hold a scrutiny hearing.
- (13) The panel must publish the recommendation. It is for the panel to determine the manner in which the recommendation is to be published.
- (14) In calculating the period of six weeks referenced in subsection 8.13.2(11), any relevant post-election period is to be ignored.
- (15) For the purpose of subsection 8.13.2(14), “relevant post-election period” means the period that –
- (a) begins with the day of the poll at an ordinary election of the PFCC under section 50 of the Police Reform and Social Responsibility Act 2011, and
  - (b) ends with the day on which the person elected as PFCC delivers a declaration of acceptance of office under section 70 of the Police Reform and Social Responsibility Act 2011.
- (16) For the purposes of this Article, a “scrutiny hearing” is a meeting of the panel, held in private, which the PFCC and the Chief Constable are both entitled to attend for the purpose of making representations relating to the proposal to call upon the Chief Constable to retire or resign.
- (17) References in this Article to a person appearing at a meeting of the panel are references to the person –

- (a) attending the meeting in person, or
  - (b) not attending the meeting in person but participating in the proceedings at the meeting by any means that enable the person to hear, and be heard in, those proceedings as they happen.
- (18) The PFCC –
- (a) must consider the panel’s recommendation given under subsection 8.13.2(11), and
  - (b) having considered the recommendation, may accept or reject it.
- (19) The PFCC must notify the panel of the decision whether or not to accept the recommendation.
- (20) The end of the scrutiny process is reached when the first of the following events occurs –
- (a) the period of six weeks referenced in subsection 8.13.2(11) ends without the panel having given the PFCC any recommendation as to whether or not the PFCC should call for retirement or resignation, or
  - (b) the PFCC notifies the panel of the decision whether or not to accept the panel’s recommendation in relation to resignation or retirement.
- (21) The above provisions and Schedule 9 to this Constitution are subject to regulations under Section 50 of the Police Act 1996.

### **8.13.3 Deputy and Assistant Chief Constables**

- (1) The Chief Constable is responsible to the public and accountable to the PFCC for appointing the force’s officers and staff, after consultation with the PFCC in the case of officers above the rank of Chief Superintendent and police staff equivalents.
- (2) Essex Police must have one or more Deputy Chief Constables, and one or more Assistant Chief Constables.
- (3) The Chief Constable for Essex must consult the PFCC before increasing the number of Deputy Chief Constables which the force has.
- (4) The Chief Constable for Essex must consult the PFCC before appointing a person to be a Deputy Chief Constable of the force, subject to regulations under section 50 of the Police Act 1996.
- (5) The Chief Constable for Essex must consult the PFCC before appointing a person as an Assistant Chief Constable of the force, subject to regulations under section 50 of the Police Act 1996.
- (6) The appropriate Deputy Chief Constable of Essex may exercise or perform any or all of the functions of the Chief Constable for Essex –
  - (a) during any period when the Chief Constable is unable to exercise functions, or

- (b) at any other time, with the consent of the Chief Constable.
- (7) For the purposes of subsection 8.13.3(6), the appropriate Deputy Chief Constable is -
  - (a) if the police force has only one Deputy Chief Constable, the Deputy Chief Constable;
  - (b) if the police force has more than one Deputy Chief Constable, the most senior Deputy Chief Constable.
- (8) If the police force has more than one Deputy Chief Constable, the Chief Constable must designate the Deputy Chief Constables in order of seniority for the purposes of subsection 8.13.3(7)(b).
- (9) The Chief Constable must consult the PFCC before making a designation for the purposes of subsection 8.13.3(7)(b).
- (10) In this Article, a reference to a period when the Chief Constable is unable to exercise functions is a reference to a period when –
  - (a) the Chief Constable is absent, incapacitated or suspended from duty, or
  - (b) the office of Chief Constable is vacant.
- (11) The Chief Constable for Essex may suspend or call upon a Deputy Chief Constable or an Assistant Chief Constable to resign or retire, subject to following the procedure set out in Schedule 8 to the Police Reform and Social Responsibility Act 2011.
- (12) If the Chief Constable suspends a Deputy Chief Constable or an Assistant Chief Constable from duty, the Chief Constable must notify the PFCC of the suspension.
- (13) Before calling for the retirement or resignation of a Deputy Chief Constable or Assistant Chief Constable, the Chief Constable must consult the PFCC.
- (14) A Deputy Chief Constable or Assistant Chief Constable must resign or retire if called upon to do so by the Chief Constable.

## **Article 9 - Miscellaneous Provisions**

### **9.1 Remuneration etc. of the PFCC**

- (1) The PFCC is to be paid a salary.
- (2) The Secretary of State is to determine the amount of the PFCC's salary and must publish every such determination.
- (3) The PFCC is to be paid authorised allowances.
- (4) For the purposes of Article 9.3(3), "authorised allowances" means allowances, in respect of expenses incurred by the PFCC in the exercise of the PFCC's functions, which are of the kinds and amounts determined by the Secretary of State as payable. Such determination may make different

provision for different cases. The Secretary of State must publish every such determination.

- (5) The PFCC must make authorised pension payments.
- (6) For the purposes of Article 9.1(5), “authorised pension payments” means –
  - (a) pensions to, or in respect of, persons who have been commissioner, and
  - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been commissioner,

which are the kinds and amounts determined by the Secretary of State as payable. The Secretary of State must publish every such determination.

## **9.2 Remuneration etc. of staff**

- (1) The PFCC may pay remuneration, allowances and gratuities to the members of their staff.
- (2) The PFCC may pay:
  - (a) pensions to, or in respect of, persons who have been members of their staff, and
  - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been members of their staff.
- (3) In this Article “allowances”, in relation to a member of the PFCC’s staff, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff.

## **9.3 Incidental powers**

- (1) The PFCC may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of PFCC.
- (2) That includes:
  - (a) entering into contracts and other agreements (whether legally binding or not);
  - (b) acquiring and disposing of property (including land);
  - (c) borrowing money.
- (3) The Chief Constable for Essex may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of Chief Constable, including -
  - (a) entering into contracts and other agreements (whether legally binding or not), but only with the consent of the PFCC;
  - (b) acquiring and disposing of property, apart from land, but only with the consent of the PFCC.

- (4) Subsection 9.3(4) does not require the Chief Constable to obtain the consent of the PFCC in order to enter into a contract or other agreement with a person –
  - (a) by virtue of which the person becomes, or is, a member of the police force's civilian staff, or
  - (b) which otherwise relates to a person's membership of that civilian staff (including the terms and conditions of the person's membership).
- (5) The PFCC is an exempt landlord under the Landlord and Tenant Act 1987.
- (6) These powers are subject to the provisions of the Police Reform and Social Responsibility Act 2011 and to any other enactment about the powers of PCCs / PFCCs and Chief Constables.

#### **9.4 Protection from personal liability**

- (1) A person who is a PFCC has no personal liability for an act or omission done by him / her in the exercise of the PFCC's functions unless it is shown to have been done otherwise than in good faith.
- (2) A person who is a member of staff of a PFCC has no personal liability for an act or omission done by him / her in the carrying out of duties as a member of staff unless it is shown to have been done otherwise than in good faith.

#### **9.5 Government Security Classifications**

- (5) (1) The Commissioner has adopted the Government Security Classifications.
- (6) (2) Security Classification refers to all information, which includes but is not limited to, physical assets (e.g. paper records, drawings, photos) and electronic assets (e.g. electronic data records, digital images, word documents). It concerns the storage, transmission, carriage and disposal of information throughout the lifecycle of the data.
- (7) (3) The scheme affects all persons working for the police or fire and rescue service, or other outside bodies who may be expected to handle protectively marked information during the course of their business or relationship with the Commissioner.
- (8) (4) The approach for implementing the Government Security Classifications is set out in Schedule 12.

#### **9.6 Power of the PFCC to obtain particulars of persons interested in land**

- (1) Where, with a view to performing a function conferred on the PFCC by any enactment, the PFCC considers that it ought to have information connected with any land, the PFCC may serve on one or more of the following persons, namely—
  - (a) the occupier of the land; and

- (b) person who has an interest in the land either as freeholder, mortgagee or lessee or who directly or indirectly receives rent for the land; and
- (c) any person who, in pursuance of an agreement between himself / herself and a person interested in the land, is authorised to manage the land or to arrange for the letting of it,

a notice specifying the land and the function and the enactment which confers the function and requiring the recipient of the notice to furnish to the PFCC, within a period specified in the notice (which shall not be less than 14 days beginning with the day on which the notice is served), the nature of their interest in the land and the name and address of each person whom the recipient of the notice believes is the occupier of the land and of each person they believe is, as respects the land, such a person as is mentioned in the provisions of paragraphs (b) and (c) of this subsection.

### **9.7 Enforceability by the PFCC of certain covenants relating to land**

- (1) This section applies where the PFCC (in the exercise of their powers under section 111 of the Local Government Act 1972 or otherwise) and any other party are parties to an instrument under seal which -

- (a) is executed for the purpose of securing the carrying out of works on land in the PFCC's area in which the other person has an interest, or
- (b) is executed for the purpose of regulating the use of or is otherwise connected with land in or outside the PFCC's area in which the other person has an interest,

and which is neither executed for the purpose of facilitating nor connected with the development of the land in question.

- (2) If, in a case where this section applies -

- (a) the instrument contains a covenant on the part of any person having an interest in the land, being a covenant to carry out works or do any other thing on or in relation to that land, and
- (b) the instrument defines the land to which the covenant relates, being land in which that person has an interest at the time the instrument is executed, and
- (c) the covenant is expressed to be one to which this section or section 126 of the Housing Act 1974 applies,

the covenant shall be enforceable (without any limit of time) against any person deriving title from the original covenantor in respect of his interest in any of the land defined as set out above, and any person deriving title under him / her in respect of any lesser interest in that land as if the person had also been an original covenanting party in respect of the interest for the time being held by him / her.

- (3) Without prejudice to any other method of enforcement of a covenant falling within the description above, or if there is a breach of the covenant in relation to any of the land to which the covenant relates, subject to the provisions below, the PFCC may –
  - (a) enter the land concerned and carry out the works or do anything which the covenant requires to be carried out or remedy anything which has been done and which the covenant required not to be done, and
  - (b) recover from any person against whom the covenant is enforceable any expenses incurred by the PFCC in exercise of their powers under this subsection.
- (4) Before the PFCC exercises their powers under (3) above, they shall not give less than 21 days' notice of their intention to do so to any person –
  - (a) who has for the time being an interest in the land or in relation to which the works are to be carried out or the other thing is to be done; and
  - (b) against whom the covenant is enforceable.
- (5) If a person against whom the covenant is enforceable requests the PFCC to supply him / her with a copy of the covenant, it shall be their duty to do so free of charge.

#### **9.8 Service of notices by the PFCC**

- (1) Any notice, order or other document required or authorised by or under any enactment to be given to or served on any person by or on behalf of the PFCC or by an officer of the PFCC may be given to or served on the person in question either by delivering it to him / her, or by leaving it at his proper address, or by sending it by post to him / her at that address.
- (2) For the purposes of this Article, the proper address of any person to or on whom a document is to be given or served shall be his or her last known address, except that—
  - (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;
  - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership;and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.
- (3) If the person to be given or served with any document mentioned in subsection (1) above has specified an address within the United Kingdom other than his proper address within the meaning of subsection (2) above as the one at which they or someone on their behalf will accept

documents of the same description as that document, that address shall also be treated for the purposes of this section as their proper address.

- (4) If the name or address of any owner, lessee or occupier of land to or on whom any document mentioned in subsection (1) above is to be given or served cannot after reasonable inquiry be ascertained, the document may be given or served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.
- (5) The foregoing provisions of this section do not apply to a document which is to be given or served in any proceedings in court.
- (6) Except as aforesaid and subject to any provision of any enactment or instrument excluding the foregoing provisions of this section, the methods of giving or serving documents which are available under those provisions are in addition to the methods which are available under any other enactment or any instrument made under any enactment.

### **9.9 Provision of information by the Chief Constable to the PFCC**

- (1) The Chief Constable for Essex must give the PFCC such information on policing matters as they may require the Chief Constable to give.
- (2) Such information must be in the form (if any) specified by the PFCC.
- (3) The PFCC may –
  - (a) arrange for such information to be published, or
  - (b) require the Chief Constable to arrange for such information to be published.
- (4) It is for the PFCC to determine the manner in which information is to be published in accordance with 3(a) or (b).

## **Article 10 - Decision making**

### **10.1 Responsibility for decision making**

- (1) The PFCC's Scheme of Delegation sets out the discharge of PFCC functions (Schedule 5) and may be subject to amendment at any time.
- (2) The Monitoring Officer will maintain the record of the body or person having responsibility for a decision or decisions relating to a function or functions of the PFCC.

### **10.2 Principles of decision making**

- (1) For the purposes of this Article, the PFCC defines a decision as any determination by the PFCC to take, or refrain from taking, any action or incurring any obligation with respect to their statutory functions, powers and duties.
- (2) All decisions taken in the discharge of a function of the PFCC shall have regard to the following matters -



- (a) Proportionality (i.e. the action must be proportionate to the desired outcome).
- (b) The presumption in favour of openness and transparency. Unless there are reasons of confidentiality, consistent with legislation, decisions and the supporting reasons for them should be made publicly available.
- (c) The need for consultation with interested parties.
- (d) The need to take account of relevant professional advice from appropriate officers – although it is recognised that the PFCC may consider such advice but make an independent decision.
- (e) The need for clarity of aims and desired outcomes.
- (f) The need to identify the range of options considered.
- (g) The need to give reasons and explanation for a decision.
- (h) The need to have due regard to the Government Security Classifications when considering disclosure of reports and documents supplied to him / her by Essex Police.

### **10.3 Written reports and decision records**

- (1) The PFCC, or Deputy PFCC, shall not take any decision within the scope of this Article without first having reviewed and considered a written report on the matter. A decision report will be signed by the PFCC or Deputy PFCC formalising the decision. For the purposes of making a decision, such a report is to be submitted on the template attached as Schedule 16 to this Constitution. The governance boards detailed in Article 11 do not have any formal decision-making powers and as such written reports to such boards submitted on any template other than that attached at Schedule 16 do not fulfil the purposes of this Article.
- (2) A decision is only considered to be taken, and as such may only be acted on by officers, once the relevant decision report has been signed by the Commissioner or their Deputy. Decision reports may be signed either in hard copy or electronically. The Personal Assistant to the PFCC and Deputy PFCC and the PFCC's Governance and Standards Officer are authorised to add the PFCC's and Deputy PFCC's electronic signatures to such documents on their written instruction. No other staff are authorised to add these signatures.
- (3) Decisions within the scope of this Article taken will be reported to the Police, Fire and Crime Panel and published on the PFCC's website.
- (4) In exceptional circumstances, and with the prior agreement of the Monitoring Officer, the need for a written report may be dispensed with. In which case all verbal advice and opinion provided shall be noted and recorded, as the case may be, in the minutes of the meeting or in the decision record.
- (5) Any other person making a decision under powers delegated to him / her by the PFCC shall, where that person believes that is proportionate to do

so in exercising those powers, produce a written statement which must include -

- (a) A record of the decision, including the date it was made;
- (b) A record of the reasons for the decision;
- (c) Details of any alternative options considered and rejected when making the decision

as soon as reasonably practicable after making the decision.

- (6) Where appropriate, the Commissioner will engage with the unions, staff representative bodies and / or other stakeholders to obtain their views prior to taking a decision within the scope of this Article.
- (7) This Article does not apply to business-as-usual management decisions (e.g. relating to diary management), which can be taken informally.

#### **10.4 General provisions**

- (1) The exercise of any delegated authority to take a decision in the discharge of a PFCC function is subject to the following -
  - (a) The person making the decision has first considered a written report prepared by an appropriate officer.
  - (b) Any decision taken shall be in accordance with the PFCC's budget and policy framework, financial regulations and contract standing orders and any condition imposed by the law, this Constitution and any relevant statutory guidance.
  - (c) Any person may, as they may determine appropriate, refer any matter falling within the authority delegated to him / her to the PFCC.
  - (d) The fact that a function has been delegated shall not prevent the discharge of that function by the person that delegated the function.

### **Article 11 - PFCC for Essex Governance Boards**

#### **11.1 General**

- (1) The PFCC will appoint the Boards set out below to discharge the functions listed under each.
- (2) Each of the Boards will conduct its business in accordance with this Constitution. The Boards will not meet in public but an account of the Boards' business will be prepared and published on the website for PFCC for Essex within 14 days of the Board's meeting.

#### **11.2 Strategic Board**

- (1) The terms of reference of the Strategic Board are set out at Appendix 1

- (2) The PFCC may convene extraordinary joint meetings of their Strategic Board with the Strategic Board convened by the Police, Fire and Crime Commissioner Fire and Rescue Authority (PFCCFRA) in order to consider and deal with strategic issues and collaborative projects impacting both Essex Police and the Essex County Fire and Rescue Service.

### **11.3 Joint Audit Committee**

- (1) The terms of reference of the Joint Audit Committee are set out at Appendix 2

### **11.4 Performance and Resources Scrutiny Board**

- (1) The terms of reference of the Performance and Resources Scrutiny Board are set out at Appendix 3

### **11.5 Essex Emergency Services Strategic Governance Board**

- (1) The Board has been established to enable the Police, Fire and Crime Commissioner to provide strategic governance and oversight of the Emergency Services Collaboration Programme.
- (2) The programme will focus specifically on Police and Fire and Rescue collaboration, however where opportunities arise it will seek to work with other emergency services.
- (3) The Board will:
  - a) Seek collaboration opportunities to maximise the effectiveness and efficiency of police and fire and rescue services.
  - b) Provide governance in relation to finance and resourcing decisions for collaboration opportunities.
  - c) Provide oversight and management of strategic collaboration risks.
  - d) Develop a strategic framework that could then be applied to wider emergency services collaboration.
- (4) The terms of reference of the Essex Emergency Services Strategic Governance Board are set out at Appendix 4.

## **Article 12 - Community Safety Partnerships and Crime and Disorder Strategies**

- (1) For each local government area, there shall be a strategy group (commonly known as a Community Safety Partnership) whose functions shall be to prepare strategic assessments and to prepare and implement a partnership plan for that area on behalf of the responsible authorities.

- (2) The PFCC is not a 'responsible authority' under the Crime and Disorder Act 1998, but the legislation expects that the PFCC and CSPs will cooperate to reduce crime, disorder and re-offending.
- (3) The PFCC's Police and Crime Plan must have regard to the priorities of each CSP and the CSPs must have regard to the priorities established by the PFCC in their Police and Crime Plan.
- (4) For the county area, there shall be a county strategy group (known as Safer Essex) whose function shall be to prepare a community safety agreement for the county area on behalf of the responsible authorities in the county area. Before the end of each year, the county strategy group (Safer Essex) shall prepare a community safety agreement for that year based on the strategic assessments for that year prepared by the strategy groups for each of the local government areas in the county. The community safety agreement shall identify –
  - (a) the ways in which the responsible authorities in the county area might more effectively implement the priorities set out in these strategic assessments through coordinated or joint working; and
  - (b) how the responsible authorities in the county area might otherwise reduce crime and disorder or combat substance misuse through coordinated or joint working.
- (5) The county strategy group (Safer Essex) shall send a copy of the community safety agreement to the PFCC.
- (6) The PFCC has the power to make grants for the reduction of crime and disorder to any person / organisation they see fit.
- (7) The PFCC will have the ability to request a report from a CSP where it is deemed not to be meeting its requirements to reduce crime and disorder. The PFCC will also have the ability to call the chairs of the CSPs and / or representatives of the responsible authorities for any local government area that lies within the police area to a meeting to discuss the formulation and implementation of any strategy (or strategies) that relate to any part of the police area. The PFCC may specify –
  - (a) the responsible authorities which are to send representatives to any such meeting;
  - (b) the number of representatives that each responsible authority is, or the responsible authorities together are, to send to the meeting, and
  - (c) the strategy (or strategies) which is (or are) to be discussed at the meeting.
- (8) The PFCC may exercise the powers in sub-section (7) only –
  - (a) after consulting with any responsible authority affected; and
  - (b) to the extent that the PFCC, having taken account of the views of the affected responsible authorities, considers reasonable and proportionate in the circumstances.

- (9) In this Article, “strategy” means a strategy under section 6(1) of the Crime and Disorder Act 1998.

**Article 13 - Independent Custody Visitors for places of detention**

- (1) The PFCC must:
- (a) make arrangements for detainees to be visited by “independent custody visitors”; and
  - (b) keep those arrangements under review and from time to time revise them as they think fit.
- (2) The PFCC must ensure:
- (a) that the arrangements made by them require independent custody visitors to prepare and submit to them a report of any visit made under the arrangements to a suspected terrorist detainee, and
  - (b) that a copy of any report submitted under paragraph (a) is given to the person appointed under section 36(1) of the Terrorism Act 2006 (independent reviewer of terrorism legislation).
- (3) The arrangements made by the PFCC must secure that the persons appointed under the arrangements are independent of both the PFCC and the Chief Constable for Essex.
- (4) The arrangements may confer on independent custody visitors such powers as the PFCC considers necessary to enable them to carry out their functions under the arrangements and may, in particular, confer on them powers -
- (a) to require access to be given to each police station;
  - (b) to examine records relating to the detention of persons there;
  - (c) in relation to suspected terrorist detainees, to listen to the audio recordings and view the video recordings (with or without sound) of interviews with those detainees which have taken place during their detention there and which were conducted by a constable;
  - (d) to meet detainees there for the purposes of a discussion about their treatment and conditions while detained; and
  - (e) to inspect the facilities there including, in particular, cell accommodation, washing and toilet facilities and the facilities for the provision of food.

- (5) The arrangements may include provision for access to the whole or part of an audio or video recording of an interview of the kind mentioned in 4(c) to be denied to independent custody visitors if -
  - (a) it appears to an officer of or above the rank of inspector that there are grounds for denying access at the time it is requested;
  - (b) the grounds are grounds specified for the time being in the code of practice issued by the Secretary of State as to the carrying out by PCCs / PFCCs and of their functions under the arrangements; and
  - (c) the procedural requirements imposed by the arrangements in relation to a denial of access are complied with.
- (6) The Secretary of State shall issue, and may from time to time revise, a code of practice as to the carrying out by the PFCC and independent custody visitors of their functions under the arrangements.
- (7) The PFCC and independent custody visitors shall have regard to any code of practice for the time being in force in the carrying out of their functions.
- (8) For the purposes of this Article –
  - (a) “detainee” means a person detained in a police station in the Essex Police area;
  - (b) “suspected terrorist detainee” means a detainee detained under section 41 of the Terrorism Act 2000.

# Appendix 1

## Police, Fire and Crime Commissioner for Essex

### Essex Police Strategic Board

#### Terms of Reference (June 2023)

##### 1. Purpose of the Essex Police (EP) Strategic Board:

The purpose of the Board is:

- To provide strategic governance and oversight of the Essex Police Transformation Programme:
  - To be the primary advisory body to the Police, Fire and Crime Commissioner (PFCC) and Chief Constable (CC) for the decisions they are required to make in respect of the Essex Police Transformation Programme.
  - To facilitate financial governance relating to the capital programme in support of the Essex Police Transformation Programme.
  - To ensure that the Essex Police Transformation Programme is public facing and reflects the needs of victims of crime and the wider public of Essex.
  - To ensure that the Essex Police Transformation Programme delivers effectively against the medium- and long-term strategic objectives of Essex Police, and the Police and Crime Plan.
  - To support alignment between Essex Police Transformation Programme and other public sector transformation and collaboration programmes across greater Essex.
  - To advise on the management of strategic risks pertinent to the Strategic Transformation programme
- To provide strategic oversight of the Medium-Term Financial Strategy (MTFS)
- To provide strategic oversight to the PFCC's capital programme
- To receive and scrutinise project bid proposals and amendments for PFCC recommendation (including those requiring a Decision Report)
- To receive and scrutinise the capital disposals plan

##### 2. Scope of the meeting:

The Strategic Board will include those programmes and projects that deliver the long-term vision of, and strategic change within, Essex Police.

##### In scope

- Estates and Fleet Strategies
- IT / Technology / Digital Strategy

- Strategic Finance (including MTFS, Treasury Management Strategy, budget setting, financial statements and Police Objective Analysis)
- Strategic Resourcing (officers, staff and volunteers, including the Force Growth Programme)
- Capital projects
- Programmes within the Major Change Programme

**Out of scope:**

- **Operational management** of the Essex Police Transformation Programme. This sits with the EP Strategic Change and Coordination Board chaired by the Deputy Chief Constable (DCC).

**3. Membership:**

- Police, Fire and Crime Commissioner (PFCC)
- Deputy Police, Fire and Crime Commissioner
- Chief Constable
- PFCC's Chief Executive and Monitoring Officer
- PFCC's Strategic Head of Performance and Resources (Chief Finance Officer)
- PFCC's Head of Performance and Scrutiny (Policing and Crime)
- EP Director of Support Services
- EP Assistant Chief Officer: Continuous Improvement and Analytics
- EP Chief Finance Officer

Also invited:

- EP Deputy Chief Constable
- EP Head of IT
- EP Head of Estates
- EP Head of Continuous Improvement

Other people may also be invited to participate in meetings, where appropriate and with the consent of the PFCC, for example senior Essex Police officers and staff (although responsibility and accountability sits with the Chief Constable or his appointed deputy for the meeting) and other PFCC staff.

Meetings will be chaired by the PFCC or, in their absence, their Deputy.

**4. Procedure for Meetings**

To ensure meetings run smoothly and are conducted properly, some procedural requirements are set out below.

**1. Frequency of Meetings**

Meetings will normally take place every quarter

**2. Notice of Meetings**

Meetings for each calendar year will be set at the start of the year. In the event that a meeting date needs to be changed wherever possible at least one calendar month's notice will be given.



### 3. Circulation of Papers

The agenda and reports will be normally circulated at least five working days before the meeting, unless an item of business is considered sufficiently urgent to justify shorter notice, as agreed by the Chair.

### 4. Forward Planning and Papers

#### a. Additions and Withdrawals

The Forward Plan, including the standing agenda items, will be reviewed and any proposed changes agreed at each meeting.

Any items which are proposed to be added to the Forward Plan during the meeting will be confirmed by the Chair.

Where changes to the agenda are requested between meetings, which impact the next scheduled meeting:

- These should be advised at least one month before the meeting, unless an item of business is considered sufficiently urgent to justify shorter notice, as agreed by the Chair;
- Additional items must be accepted by the PFCC and Chief Constable (or their respective deputies);
- Withdrawn items will remain on the agenda for a verbal explanation / update at the meeting.

#### b. Paper submission and circulation

All papers will be requested through the Essex Police Single Point of Contact (SPOC) in the Continuous Improvement Team, Continuous Improvement and Analytics Directorate.

Papers will ordinarily be added to the forward plan with a minimum of 12 weeks' notice. Exceptionally, where need arises, and at the request or agreement of the Chair, papers may be requested with a minimum four weeks' notice.

Papers will be submitted on the template provided by the PFCC's office unless otherwise agreed in advance with the Head of Performance and Scrutiny. Papers must include a Government security classification. Papers will be submitted by the Continuous Improvement and Analytics Directorate SPOC following Chief Officer sign off, no later than 7 working days prior to the meeting in order to facilitate circulation.

Where papers are data dependent, and data availability means that a paper needs to be submitted outside of this timeframe, a schedule for submission will be agreed at least eight weeks prior to the meeting at which the paper will be presented.

#### c. Board Planning Meetings

Typically, two planning meetings will take place between each Board meeting to consider any proposed changes to the forthcoming agendas and papers. These meetings will identify any changes to be requested to the Forward Plan and will determine the necessary decision-making process.

## **5. Decision-making (PFCC or Deputy PFCC)**

The Board may make recommendations for decisions to be taken by the PFCC. Operational decisions will not be made in this meeting as these rest with the Chief Constable. Decisions made by the PFCC will usually be ratified by means of a Decision Report. Some decisions, where financial costs are less than £250,000 and where there are no other notable legal or reputational risks associated, may be made by the Decision Report process without coming to a Strategic Board meeting. The PFCC reserves the right to request that any Decision Report be presented at a Strategic Board meeting prior to signing, where they consider this to be appropriate.

## **6. Publishing of information**

All documents must be labelled in accordance with the UK Government Security Classifications.

The agenda will include verification of the security classification of papers and confirmation of these classifications (and approval for publishing) will be sought at the conclusion of each Board meeting.

Documents marked 'Official Sensitive' or above (Secret / Top Secret) are not to be published.

Documents labelled 'Official' and those not protectively marked may be published with the following exceptions:

- The document must not include any personal details in accordance with GDPR.
- The documents must not contain or allude to any form of intelligence, which may compromise policing activity and tactics.
- The document must not contain any embedded documents that fall outside of the classification on the main paper.

Draft minutes will be circulated within seven working days of the meeting and agreed minutes will be published within 14 days of the subsequent meeting. Amendments to the minutes may be submitted between meetings and, where the Chair is in agreement, a revised version of the minutes may be circulated. Any proposed amendments which are not authorised by the Chair between meetings must be highlighted at the following meeting for discussion and approval / rejection.

The written minutes are the official record of the meeting. In preparing these minutes a recording of the meeting may be used but this will be deleted once those minutes have been agreed.

## **7. Secretariat**

The secretariat of the meeting will be provided by the PFCC's office.

# Appendix 2

## Terms of Reference of the Joint Audit Committee

Adopted March 2023

### 1. Introduction

- 1.1 The Joint Audit Committee (the Committee) has been established to provide independent assurance to the Police, Fire and Crime Commissioner (PFCC) and the Chief Constable in accordance with the Revised Financial Management Code of Practice for the Police Forces of England and Wales and Fire and Rescue Authorities created under section 4A of the Fire and Rescue Services Act 2004. The role of the Audit Committee is to advise the PFCC and the Chief Constable according to good governance principles; to support and challenge the PFCC and the Chief Constable to adopt appropriate risk management arrangements in accordance with proper practices, and to oversee the associated control environment and the financial reporting process.
- 1.2 The Committee will operate in line with the principles of good governance as laid down by the Chartered Institute of Public Finance & Accountancy (CIPFA) and the Revised Financial Management Code of Practice for the Police Forces of England and Wales and Fire and Rescue Authorities created under section 4A of the Fire and Rescue Services Act 2004.
- 1.3 The Committee will consider the internal and external auditors' reports of both the PFCC and the Chief Constable.
- 1.4 The Committee is an independent body and will seek assurance over the adequacy of the following:
  - The risk management and the internal control framework operated by the PFCC and Chief Constable.
  - The effectiveness of their respective governance arrangements.
  - The appointment, support, and quality of the work of internal and external auditors as they provide assurance on risk management, internal controls, and the annual accounts through their work.
  - Financial and non-financial performance to the extent that it affects the PFCC's and Chief Constable's exposure to risk, weakens the control environment and undermines their ability to provide good value for money.
  - The financial reporting process.

The Committee will also maintain an overview in respect of contract procedure rules, financial and procurement regulations and codes of conduct and behaviour.

- 1.5 The Committee has no executive powers, other than those specifically delegated in these Terms of Reference.
- 1.6 The Committee will establish effective communication with the PFCC and Chief Constable, their nominated representatives, their respective Chief Finance Officers, Monitoring Officers, Head of Internal Audit, the External Auditor, and other relevant

stakeholders, including the Police, Fire and Crime Panel, for the purpose of fulfilling these Terms of Reference.

## **2. Membership**

2.1 The Committee will comprise of a chair and four members appointed jointly by the PFCC and the Chief Constable, but who are independent of the PFCC, and Chief Constable.

2.2 Members of the Committee shall be recruited through open competition, in conjunction with the Police, Fire and Crime Commissioner, the Chief Constable or their representatives. They shall be recruited to ensure that the Committee has all the necessary skills and experience to fulfil its Terms of Reference, in accordance with the job description. To ensure the independence of the Committee, members shall not be:

- A standing or ex-PCC, PFCC, Deputy PCC or PFCC or Chief Constable.
- A member or ex-member of a Police and Crime Panel or a Police, Fire and Crime Panel.
- Serving police officers currently serving staff of either a police force, a Police and Crime Commissioner or a Police, Fire and Crime Commissioner.
- Individuals who have significant business or personal dealings with the Police, Fire and Crime Commissioner or Essex Police.
- Individuals who have close relationships with any of the above including immediate family members and as such may not have the requisite level of independence required for membership of the Committee.
- Individuals removed from a trusteeship of a charity.
- Individuals under a disqualification order under the Company Directors Disqualification Act.
- A person who has been adjudged a bankrupt or made a composition or arrangement with his creditors.
- A person convicted in the UK, Channel Islands or the Isle of Man of any offence and has had passed on them a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine, within the last five years prior to their appointment.
- Subject to any relevant notification requirements under Part 2 of the Sexual Offences Act 2003 or Schedule 1 to the Criminal Justice Act 2001.
- Subject to any of the following:
  - A sexual harm prevention order under section 345 of the Sentencing Code or section 103A of the Sexual Offences Act 2003
  - A sexual offences prevention order under section 104 of the Sexual Offences Act 2003 or section 1 of the Sex Offenders Act 2006
  - A sexual risk order under section 122A of the Sexual Offences Act 2003
  - A risk of sexual harm order under section 123 of the Sexual Offences Act 2003 or section 5 of the Sex Offenders Act 2006

2.3 The Chair of the Committee will be jointly recruited by the PFCC and the Chief Constable and will serve for one term (of four years) in the role as Chair whereupon they can be re-appointed, if appropriate and subject to agreement by the PFCC and the Chief Constable, subject to serving a maximum of three terms.

2.4 All members will serve for a maximum of three terms, each term being a maximum of four years. To ensure continuity, where possible, members shall be rotated on and off the Committee in turn rather than as a group, therefore the term of membership will be determined on recruitment of the member.

- 2.5 All members of the Committee will be subject to an independent annual appraisal, the outcomes of which will inform the member development programme.
- 2.6 On joining the Committee, each member will attend an induction training course to help them understand the roles of the PFCC and the Chief Constable, the Police, Fire and Crime Panel and the organisations pertaining to the PFCC and Chief Constable. Further training on specific relevant topics will be provided as necessary, according to the members' own relevant experience and emerging business needs of the Committee. Members will be expected to attend all such training and to develop their skills as part of a member development programme. Training needs will be considered during the annual appraisal process and a training and development programme established both for the Committee and its individual members as appropriate.
- 2.7 In accordance with the Committee's code of conduct, each member will be required to record any conflicts of interest in the register of pecuniary and non-pecuniary interests. In addition, members will be required to disclose any such interests at the commencement of any meeting where there is a need to do so due to the nature of the Committee agenda, or immediately if they arise unexpectedly in discussion.
- 2.8 Only members of the Committee have the right to vote on matters requiring a vote at meetings.
- 2.9 Members of the Committee will be remunerated and reimbursed for all expenses incurred in the fulfilment of their duties, roles, and responsibilities in accordance with the schedule of allowances and expenses agreed by the PFCC and Chief Constable.

### **3 Frequency and notice of meetings**

- 3.1 The Committee will hold ordinary meetings at least **four** times a year. The calendar of meetings shall be agreed at the start of each year.
- 3.2 One extraordinary meeting each year shall be dedicated to the scrutiny and pre-approval of the statement of accounts of the PFCC and Chief Constable before submission to external audit. In performing its annual review of the draft financial statements and narrative report, the Committee will consider:
- Proposed accounting policies for inclusion in the draft statement of accounts
  - Proposed key accounting judgements
  - Management's assessment of going concern
- 3.3 Further meetings outside of the normal cycle of the Committee can be convened at the request of the Chair or any of its members, subject to agreement by the Chair.
- 3.4 The PFCC and / or the Chief Constable may ask the Committee to convene further meetings to discuss particular issues on which they want the Committee's advice.
- 3.5 Meetings can be requested by the external or internal auditors where this is considered necessary and on agreement of the Chair.
- 3.6 Unless otherwise agreed, formal notice of each meeting confirming the venue, time, and date together with the agenda of items to be discussed, will be forwarded to each member of the Committee, any other person required to attend and all other appropriate persons determined by the Chair, no later than five working days before the date of the meeting.

- 3.7 Any meetings held outside the normal cycle of meetings should be convened with a minimum notice of five working days. Extraordinary or urgent meetings may be held with less notice but should be for exceptional matters only, subject to the Chair's agreement and quorum requirements. In this case, the agenda and supporting papers will be sent to Committee members and to other attendees at the same time as the meeting notice is sent out, recognising that if the matter is so urgent there may only be an oral report. If this is the case, this will be identified on the agenda.
- 3.8 For matters of urgency, the Chair or any Committee member, subject to agreement by the Chair, may email each member of the Committee to discuss a recommendation to be put to the Commissioner. Any proposed recommendation would require the emailed support of a majority of the membership and should be reported to the next Committee meeting.

#### **4 Attendance at meetings and quorum**

- 4.1 Members of the Committee are expected to attend all meetings. Regular non-attendance of Committee members will lead to their removal as a member of the Committee on agreement by the Chair.
- 4.2 The meetings can be held in person, virtually or as a combination of the two.
- 4.3 The PFCC and Chief Constable, will attend all meetings of the JAC, or ensure that they are suitably and appropriately represented to ensure that the purpose of the Committee is not compromised and that members are able to fulfil their responsibilities appropriately. In addition, the Police Reform and Social Responsibility Act 2011, Section 114 of the Local Government Finance Act 1988 and the Audit and Accounts Regulations 2011 assign a number of statutory responsibilities to each of the Chief Finance Officers of the PFCC and Chief Constable. Given the nature of these responsibilities it is expected that both the Chief Finance Officers of the PFCC and the Chief Constable will attend all meetings, or where this is not possible then their nominated representatives.
- 4.4 The Head of Internal Audit and representatives of the external auditor will be invited to attend meetings on a regular basis. Members of the Committee should meet with the Head of Internal Audit and representatives of the external auditor separately and privately at least once a year. Independent members of the Committee may choose to hold meetings with the auditors without management present.
- 4.5 The Committee may also invite or require subject matter experts to attend meetings of the Committee to present reports or otherwise support its consideration of agenda items as required.
- 4.6 A minimum of three members of the Committee must be present for the meeting to be deemed quorate. Committee meetings will be held in private with the matters discussed being placed in the public domain.
- 4.7 The Committee may hold private informal meetings (e.g., for briefing and training purposes) without any non-members present if it so decides. Formal decisions cannot be taken at such meetings.

## **5. Access**

- 5.1 The Chief Finance Officers, the Monitoring Officers, Head of Internal Audit, and the representative of External Audit of the PFCC and Chief Constable will have free and confidential access to the Chair of the Committee.

## **6. Minutes**

- 6.1 The Secretary will record the names of those present at the meeting, and write minutes, including the key points and decisions of all meetings, along with any actions stemming from discussion that need to be taken before the next meeting. The minutes of the previous meeting must be approved by the Committee and signed by the Chair as a true record at each meeting. Once approved, the written minutes will be the official record of the meeting. In preparing these minutes a recording of the meeting may be used but this will be deleted once the official written minutes have been agreed at the following Board meeting.
- 6.2 The Chair of the Committee will establish, at the beginning of each meeting, the existence of any conflicts of interest and the Secretary will minute them accordingly. See also paragraph 2.7 of these Terms of Reference.
- 6.3 The unsigned and unapproved minutes of the most recent Committee meeting will be circulated promptly and no later than 10 working days after the meeting to all members, to the PFCC and the Chief Constable along with their nominated representatives at the Committee, the Chief Finance Officers of the PFCC and Chief Constable and to the internal and external auditors once they have been approved for circulation by the Chair.
- 6.4 To ensure transparency of process of review and scrutiny, the minutes and all papers of the Committee will be published subject to the following:
- All documents must be labelled in accordance with the UK Government Security Classifications.
  - The agenda will include verification of the security classification of papers and confirmation of these classifications (and approval for publishing) will be sought at the conclusion of each Committee meeting.
  - Documents marked 'Official Sensitive' or above (Secret / Top Secret) are not to be published.
  - Documents labelled 'Official' and those not protectively marked may be published with the following exceptions:
    - The document must not include any personal details in accordance with GDPR.
    - The document must not contain or allude to any form of intelligence, which may compromise policing activity and tactics.
    - The document must not contain any embedded documents that fall outside of the classification on the main paper.

## **7. Reporting**

- 7.1 To ensure relevant and timely reporting throughout the year to the Committee a reporting timetable will be prepared and agreed with the PFCC and Chief Constable. This will be designed to enable the Committee to fulfil its responsibilities and receive the assurances it requires.
- 7.2 The Chair will provide the PFCC, and Chief Constable with an Annual Report timed to support finalisation of the accounts and the Annual Governance Statement,

summarising its conclusions from the work it has undertaken during the year and drawing attention to any significant or emerging issues as appropriate. This report will be placed in the public domain following discussion with the PFCC and Chief Constable along with their responses to the Chair's Annual Report. The Chair will be responsible for dealing with any public or media questions relating to that report.

- 7.3 The Committee will, having regard to best governance practice, review these Terms of Reference annually and make any changes deemed necessary in consultation with the PFCC and Chief Constable.
- 7.4 The Committee will annually review its own performance to ensure it is fulfilling its Terms of Reference and operating effectively. In doing so it will make any recommendations for change to the PFCC and Chief Constable.

## **8. Responsibilities**

### **8.1 Risk Management, Governance, and Internal Control Responsibilities**

The Committee will seek assurance in connection with the following responsibilities:

- 8.1.1 The establishment and maintenance of an effective system of risk management, integrated governance, and internal control, across the whole of the PFCC's and Chief Constable's activities that support the achievement of the objectives of the Police and Crime Plan, ensuring probity, value for money and good governance.
- 8.1.2 The timely implementation of any actions necessary to ensure compliance with all internal standards and best practice, both financial and non-financial, operated by the PFCC and Chief Constable.
- 8.1.3 The adequacy of relevant disclosure statements, in particular the Annual Governance Statement, together with any accompanying Head of Internal Audit report, external audit opinion, risk register or other appropriate independent assurances, prior to endorsement by the PFCC and / or the Chief Constable. Subject to this the Committee will recommend for adoption the joint Annual Governance Statement for the PFCC and Chief Constable.
- 8.1.4 The adequacy of arrangements for ensuring compliance with relevant regulatory, legal and code of conduct requirements and fraud and corruption as set out in Secretary of State Directives and by other relevant bodies or professional standards.
- 8.1.5 Notwithstanding the specific responsibilities of the Committee in connection with both internal and external audit, consider the adequacy of response by the PFCC and / or the Chief Constable to recommendations contained within any external inspection report that has been received for the purposes of assurance.

### **9. Internal Audit Responsibilities**

- 9.1 It is anticipated that the PFCC and Chief Constable will engage the same internal auditors. The role of the Committee in relation to internal audit will include the following:
  - 9.1.1 Considering and making recommendations to the PFCC and the Chief Constable on the provision of internal auditors, including appointment, assessment of performance and dismissal.



- 9.1.2 Approving but not directing the internal audit strategy and annual internal audit plan, ensuring that this:
- is consistent with professional standards;
  - meets the audit needs of the PFCC and Chief Constable, and
  - provides the Committee with adequate coverage for the purpose of obtaining appropriate levels of assurance over the adequacy of the risk management, governance, and internal control environment of both the PFCC and Chief Constable.
- 9.1.3 Considering the Head of Internal Audit's annual report and opinion, and a summary of audit activity (actual and proposed) and the level of assurance it gives over the risk management, internal controls, and governance arrangements of the PFCC and Chief Constable.
- 9.1.4 Considering the findings of internal audit reports (or their summaries), the assurance provided and the adequacy of the response by the PFCC and / or Chief Constable.
- 9.1.5 Commissioning additional work from the internal auditor, having regard to any actual or potential conflicts of interest.
- 9.1.6 Ensuring co-ordination between the internal and external auditors to optimise audit resources.
- 9.1.7 Annually reviewing the effectiveness of internal audit.
- 9.2 Where the Committee considers there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters that the Committee wishes to raise, the Chair must initially take advice from the Monitoring Officer before raising the matter with the PFCC and Chief Constable. Where appropriate the Committee may then seek independent legal advice. Exceptionally, the matter may need to be referred directly to the external auditor, HMICFRS and / or the Home Office e.g., fraud suspicion directly involving the PFCC or Chief Constable.

## **10. External Audit Responsibilities**

- 10.1 It is anticipated that the PFCC and Chief Constable will engage the same external auditors. The role of the Committee in relation to external audit will include the following:
- 10.1.1 Considering and making recommendations to the PFCC and the Chief Constable on the provision of external auditors, including appointment and dismissal in conjunction with the body which is responsible for the appointment of external auditors in England to bodies subject to audit under the Audit Commission Act 1998.
- 10.1.2 Reviewing, advising on, and endorsing the external audit strategy and annual audit plan, ensuring that this is consistent with professional standards and the External Audit Code of Audit Practice.
- 10.1.3 Considering the external auditor's annual management letter, relevant reports, and the report to those charged with governance.

- 10.1.4 Considering specific reports as agreed with the external auditor.
- 10.1.5 Commissioning work from the external auditor, having regard to any actual or potential conflicts of interest.
- 10.1.6 Considering major findings of external audit work and the adequacy of response of the PFCC and / or Chief Constable.
- 10.1.7 Ensuring co-ordination between the internal and external auditors to optimise audit resources.

## **11. Annual Accounts of the PCC and Chief Constable**

The Committee will:

- 11.1 Review, scrutinise and recommend for signature the annual statement of accounts prior to their external audit. Specifically, it will seek assurances as to whether appropriate accounting policies have been followed and whether there are any concerns arising from the financial statements.
- 11.2 Consider the external auditor's report to those charged with governance on issues arising from the audit of accounts.

## **12. Auditor Panel**

- 12.1 The functions of the auditor panel are set out in the Local Audit and Responsibility Act 2014 and the Local Audit (Auditor Panel) Regulations 2014 (the Auditor Panel Regulations).
- 12.2 The Committee is authorised by the PFCC and Chief Constable to carry out the functions specified below and can seek any information it requires from any employees/relevant third parties.
- 12.3 The auditor panel is authorised by the PFCC and Chief Constable to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary. Any such arrangements must be obtained in line with the PFCC's existing rules.
- 12.4 The auditor panel's responsibilities are to advise the PFCC and Chief Constable on:
  - i) The selection and appointment of the external auditor. This includes:
    - a. Agreeing and overseeing a robust process for selecting the external auditor in line with the PFCC's normal procurement rules
    - b. Basing the selection of external auditor on effectiveness and cost
    - c. Excluding any proposed external auditor firms that include non-audit services in their offering
    - d. Ensuring that any conflicts of interest are dealt with effectively
  - ii) The maintenance of an independent relationship with the appointed external auditor.
  - iii) Ensuring that any proposal from the external auditor to enter into a liability limitation agreement as part of the procurement process is fair and reasonable.
  - iv) Any decision about the removal or resignation of the external auditor.

12.5 The auditor panel will be involved in any discussions and receipt of relevant documents relating to public interest reports.

### **13. Information Requirement**

13.1 For each meeting the Committee will normally be provided with the following:

- A report summarising any significant changes to the PFCC's, and Chief Constable's risk and controls profile and any action planned in response.
- A report on any governance matters arising or a note that no governance matters have arisen since the last meeting and any action planned in response.
- A progress report from the head of internal audit summarising:
  - Work performed and a comparison with work planned
  - Key issues emerging from internal audit work
  - Management responses to audit recommendations
  - Changes to the periodic plan
  - Any resourcing issues affecting the delivery of internal objectives
- A progress report from the external audit representative summarising work done and emerging findings.
- A summary report of actions being tracked, and progress made in connection with their implementation on significant risk, governance and internal controls matters, thereby providing for an ongoing process of follow-up.

### **14. Support for the Committee**

14.1 The Chair, in conjunction with the PFCC and Chief Constable, has responsibility for ensuring that the work of the Committee is appropriately resourced, including appropriate secretariat support and any other specialist support necessary to ensure its members are effective in their role. The Chair has a duty to report any shortfall in the level of support to the PFCC and Chief Constable in the first instance and in a public report if this is not remedied.

14.2 The allocation of secretariat support to the Committee and its funding will be agreed between the PFCC and Chief Constable. This will include ensuring that best practice as contained in relevant good governance codes and protocols is upheld so that the Committee is effective, and the members' independence is maintained.

14.3 The Committee may with reasonable justification and with joint approval by the respective Chief Finance Officers of the PFCC and Chief Constable procure specialist ad-hoc advice e.g., legal, to obtain additional skills, knowledge, and experience at the expense of the PFCC and Chief Constable to support the Committee in the achievement of its Terms of Reference. This will be considered appropriate where specialist advice is not available within the existing Committee support arrangements, or it is not considered appropriate to use this support.

# Appendix 3

## Police, Fire and Crime Commissioner for Essex

### Essex Police Performance and Resources Board

#### Terms of Reference (June 2023)

#### 1. PURPOSE OF THE ESSEX POLICE PERFORMANCE AND RESOURCES BOARD

The purpose of the Board is to enable the Police, Fire and Crime Commissioner (PFCC) to review the efficiency and effectiveness of the force against performance objectives set out in the Police and Crime Plan. It is the forum whereby the PFCC is able to ensure budgeted resources are closely aligned with policing priorities.

The Board will enable the PFCC to maintain an oversight of the totality of policing and hold the Chief Constable to account (including through his representative with delegated authority) for the delivery of operational policing and where the Police pay due regard to the Police and Crime Plan.

The terms of reference will be reviewed on an annual basis.

#### 2. SCOPE OF THE MEETING

The Performance and Resources Board will:

- Scrutinise, support and challenge the overall performance of the force including against the priorities agreed within the Police and Crime Plan
- Support the PFCC in holding the Chief Constable to account for the performance of the force's officers and staff
- Support the PFCC in holding the Chief Constable to account for the exercise of the functions of the office of Chief Constable and the functions of the persons under the direction and control of the Chief Constable
- Advise the PFCC on actions to be taken to maintain an efficient and effective police force for Essex
- Consider and discuss different themes, subjects or 'deep dives' for scrutiny, challenge and support
- Monitor actual revenue spend against budget, and the forecast outturn advising corrective action where appropriate in order to further advance the priorities of the Police and Crime Plan

- Monitor actual and forecast capital expenditure and resourcing against the approved capital programme advising the Strategic Board on progress achieved
- Monitor the progress made by the force in delivering planned transformation savings
- Publish the agenda and minutes to ensure transparency of the process of review and scrutiny.
- Identify areas of support and commissioning that would assist in achieving the Police and Crime Plan

### **3. MEMBERSHIP**

The membership of the Performance and Resources Board is as follows:

- Police, Fire and Crime Commissioner
- Deputy Police, Fire and Crime Commissioner
- Chief Constable
- Deputy Chief Constable
- PFCC's Chief Executive and Monitoring Officer
- PFCC's Chief Finance Officer and Strategic Head of Performance and Resources
- PFCC's Head of Performance and Scrutiny (Policing and Crime)
- EP Assistant Chief Officer: Continuous Improvement and Analytics
- EP Chief Finance Officer

Meetings will be chaired by the Police, Fire and Crime Commissioner, or in their absence, their Deputy.

Other people may also be invited to participate in meetings where appropriate and with the consent of the PFCC, for example senior Essex Police officers and staff (although responsibility and accountability sits with the Chief Constable), other PFCC staff, chief officers of other organisations, representatives of community groups and subject experts.

### **4. PROCEDURE FOR MEETINGS**

To ensure meetings run smoothly and are conducted properly, some procedural requirements are set out below.

- i) **Frequency of Meetings**  
Meetings will normally take place every month
- ii) **Notice of Meetings**  
Meetings for each calendar year will be set at the start of the year. In the event that a meeting date needs to be changed, wherever possible at least one calendar month's notice will be given.

### **iii) Circulation of Papers**

Papers will be circulated at least five full working days before the meeting unless an item of business is considered sufficiently urgent by the Chair to justify shorter notice.

### **iv) Forward Planning and Papers**

#### **a. Additions and Withdrawals**

The Forward Plan, including the standing agenda items, will be reviewed and any proposed changes agreed at each meeting. Any items which are proposed to be added to the Forward Plan during the meeting will be confirmed by the Chair.

Where changes to the agenda are requested between meetings which impact the next scheduled meeting:

- Additional items must be accepted by the PFCC and Chief Constable (or their respective deputies);
- Withdrawn items will remain on the agenda for a verbal explanation / update at the meeting.

All papers will be requested through the Essex Police Single Point of Contact (SPOC) in the Continuous Improvement and Analytics Directorate.

Papers will ordinarily be added to the forward plan with a minimum of eight weeks' notice. Exceptionally, where need arises, papers may be requested with a minimum four weeks' notice.

Papers will be submitted on a template provided by the PFCC's office (identified on the Forward Plan) unless otherwise agreed in advance with the Head of Performance and Scrutiny (Policing and Crime). Papers must include a Government security classification.

Papers will be submitted by the Continuous Improvement and Analytics Directorate SPOC following Chief Officer sign off, seven working days prior to the meeting in order to facilitate circulation.

Where papers are data dependent, and data availability means that a paper is anticipated to be submitted outside of this timeframe, a schedule for submission will be agreed at least eight weeks prior to the meeting at which the paper will be presented. This agreement will acknowledge any requests by the PFCC for draft papers to be shared in advance, the Chief Officer Group (COG) date for approval of the paper and the deadline for such draft papers.

**v) Decision-making (PFCC or Deputy PFCC)**

The Board may make recommendations for decisions to be taken by the PFCC. Operational decisions will not be made in this meeting as these rest with the Chief Constable. Where recommendations are made for a decision by the PFCC the item will be directed to the Strategic Board. Where appropriate a decision report may be submitted and approved outside of Strategic Board, resulting from a discussion at this Board.

**vi) Publishing of Information**

All documents must be labelled in accordance with the UK Government Security Classifications.

The agenda will include verification of the security classification of papers and confirmation of these classifications (and approval for publishing) will be sought at the conclusion of each Board meeting.

Documents marked 'Official Sensitive' or above (Secret / Top Secret) are not to be published.

Documents labelled 'Official' and those not protectively marked may be published with the following exceptions:

- The document must not include any personal details in accordance with GDPR.
- The documents must not contain or elude to any form of intelligence, which may compromise policing activity and tactics.
- The document does not contain any embedded documents that fall outside of the classification on the main paper.

Draft minutes will be circulated within seven working days of the meeting and agreed minutes will be published within 14 days of the subsequent meeting. Amendments to the minutes may be submitted between meetings and, where the Chair is in agreement, a revised version of the minutes may be circulated. Any proposed amendments which are not authorised by the Chair between meetings must be highlighted at the following meeting for discussion and approval / rejection.

The written minutes are the official record of the meeting. In preparing these minutes a recording of the meeting may be used but this will be deleted once those minutes have been agreed.

**vii) Secretariat**

The secretariat of the meeting will be provided by the PFCC's office.

# Appendix 4

## Essex Emergency Services Collaboration Strategic Governance Board

### Terms of Reference October 2021

Version	Date	Reviewer	Comments
3.0	June 2019		Agreed at June SGB
3.1	Sep 2021	Greg Myddelton	Review of ToR

#### Summary of changes

- Addition of version control table
- Membership updated to reflect new appointments
- Added reference to plan on a page as part of Programme Board approval process for new projects
- Secretariat amended to PFCC's office
- Date of next ToR review incorporated

#### Membership:

- Police, Fire and Crime Commissioner (PFCC) (Chair)
- Deputy Police, Fire and Crime Commissioner (DPFCC) (Vice Chair)
- Chief Constable
- Chief Fire Officer / Chief Executive
- Head of Operations, Mid and South Essex (EEAST)
- Chief Executive to the PFCC & Monitoring Officer to the PFCC and ECFRS
- PFCC's Strategic Head of Partnerships & Delivery (Lead for Emergency Service Collaboration Programme)
- PFCC's Strategic Head of Performance and Resources
- PFCC's Executive Project Support (secretariat)

Substitutions will be accepted, so long as they are appropriately briefed and mandated to represent the view of their organisation at the meeting.

Additional attendees may be invited to individual meetings by the Commissioner to support agenda discussions. An "open chair" will be available for colleagues attending as observers to the meeting, to support their personal development, at the discretion of the Chair.



## **Attendance at meetings and quorum**

Members of the Board are expected to attend all meetings wherever possible. Where this is not possible, a named substitute may be sent on their behalf, who must be appropriately briefed to represent the standing member.

At least one representative from each participating agency (EP / ECFRS / EEAST), as well as the PFCC or their Deputy, must be present for the meeting to be deemed quorate.

The meetings will be held in private.

## **Purpose:**

- To provide collective ownership, strategic governance and oversight of the Essex Emergency Services Collaboration Programme, including in relation to finance and resourcing decisions.
- To maximise the effectiveness and efficiency of police, fire and rescue and ambulance services within Essex through a programme of strategic and operational collaboration.
- To review business cases relating to potential emergency services collaboration projects and provide recommendations to the PFCC as to whether these should be progressed, taking into account existing collaboration agreements and other arrangements for co-operation as well as the desirability of the respective parties taking a consistent approach.
- To provide oversight and management of strategic risks pertaining to the Essex Emergency Services Collaboration Programme.

## **Decision making:**

The Board makes recommendations to the PFCC but has no executive decision-making powers. Final decisions in relation to the Essex Emergency Services Collaboration programme are made by the PFCC via the decision sheet process or, where appropriate, Chief Officers under existing schemes of delegation and consent. Where the latter is the case, these decisions must have due regard to the strategic direction set by the Strategic Governance Board and will be reported into the Strategic Governance Board.

Recommendations to the PFCC are to be formulated by the Board on the basis of consensus wherever possible. Where there is divergence of opinion between members of the Board, this is to be made clear to the PFCC when the matter is referred to them for decision.

### **Stakeholder engagement:**

It is recognised that collaboration proposals relating to Enabling Services will also require the active involvement and consent of the Chief Constable of Kent Police and the Kent Police and Crime Commissioner, who are equal partners in the current Police Shared Services Directorate and the wider 7 Force collaboration programme. Responsibility for engaging Kent colleagues in this regard will sit with the Chief Constable and PFCC respectively.

The Chief Officers of Essex Police, the Essex County Fire and Rescue Service and the East of England Ambulance Service NHS Trust will ensure that the recognised representative bodies of their respective organisations are sighted on all programme work being considered or undertaken, on behalf of their membership.

Any formal consultation with staff required as a result of the collaboration programme will be undertaken by the relevant Chief Officers.

### **Gateway process for approval of project business cases:**

Suggestions to progress additional collaboration initiatives across two or more of the organisations represented within the Essex Emergency Services Collaboration Programme will be raised in the first instance at the Collaboration Programme Board, usually in the form of a plan on a page, for authorisation to progress discussions within the relevant organisations.

Subject to the Programme Board authorising progression to the next stage, proposals will be developed into a Project Initiation Document (PID) (setting out the scope of the project idea, including the mandate, options, outcomes and benefits pathway), to be presented to the relevant Chief Officer teams as follows:

- Essex Police Chief Officer Group (COG)
- Essex County Fire and Rescue Service Leadership Team (SLT)
- EEAST Senior Management Team (SMT)

Subject to the relevant internal governance bodies being content to progress to the next stage of proposal development, the relevant Chief Officers will appoint work-stream leads (project managers) who will be responsible for the development of a Strategic Outline Case (SOC) (including the resourcing requirements, project organisation structure, quality register, risks and issues register, and communications strategy) to be presented to the Strategic Governance Board for consideration and approval in principle. ***No collaboration proposals will be considered by the Strategic Governance Board without first going through this process.***

As set out above, the Board makes recommendations to the PFCC but has no executive decision-making powers. Final decisions as to whether proposed collaboration initiatives are to be progressed are made by the PFCC via the decision sheet process or, where appropriate, Chief Officers under existing schemes of delegation and consent. Where the latter is the case, these decisions must have

due regard to the strategic direction set by the Strategic Governance Board and will be reported into the Strategic Governance Board.

### **Meeting frequency:**

The Board shall meet bi-monthly. The calendar of meetings shall be agreed at the start of each year. Unless otherwise agreed, formal notice of each meeting confirming the venue, time and date together with the agenda of items to be discussed and the associated papers will be forwarded to each member of the Board, any other person required to attend and all other appropriate persons determined by the Chair, no later than five working days before the date of the meeting.

Further meetings outside of the normal cycle of the Board can be convened at the request of the Chair or any of its members, subject to agreement by the Chair. Any meetings held outside the normal cycle of meetings should be convened with a minimum notice of five working days. Extraordinary or urgent meetings may be held with less notice but should be for exceptional matters only, subject to the Chair's agreement and quorum requirements. In this case the agenda and any supporting papers will be sent Board members and to other attendees at the same time as the meeting notice is sent out.

Oral reports will not be accepted for substantive agenda items except in very exceptional cases, at the discretion of the Chair.

### **Secretariat:**

The PFCC's office will provide the secretariat to the Board.

### **Programme Board:**

The Strategic Governance Board (SGB) will be supported by the Essex Emergency Services Collaboration Programme Board (see separate Programme Board Terms of Reference). The Programme Board will provide reports into the Strategic Governance Board on progress against the collaboration work streams, as well as draft business cases, resource considerations and recommendations for decisions. The Programme Board is also the owner of the Collaboration Risk Register and will report to each meeting of the SGB on new, emerging and changing risks facing the programme and the mitigations put in place in response.

### **Review**

The Terms of Reference of this Board will be reviewed on an annual basis. The next review is due in October 2022.

## Schedule 1

### The Elected Local Policing Bodies (Specified Information) Orders

The Elected Local Policing Bodies (Specified Information) Order 2011  
[SI 2011/3050]

[The Elected Local Policing Bodies \(Specified Information\) Order 2011 \(legislation.gov.uk\)](#)

The Elected Local Policing Bodies (Specified Information) (Amendment) Order 2012  
[SI 2012/2479]

[The Elected Local Policing Bodies \(Specified Information\) \(Amendment\) Order 2012 \(legislation.gov.uk\)](#)

The Elected Local Policing Bodies (Specified Information) (Amendment) Order 2013  
[SI 2013/1816]

[The Elected Local Policing Bodies \(Specified Information\) \(Amendment\) Order 2013 \(legislation.gov.uk\)](#)

The Elected Local Policing Bodies (Specified Information) (Amendment) Order 2021  
[SI 2021/547]

[The Elected Local Policing Bodies \(Specified Information\) \(Amendment\) Order 2021 \(legislation.gov.uk\)](#)

## Schedule 2



# Information Sharing Agreement

Essex Police

and

Police, Fire and Crime  
Commissioner for Essex

## Introduction

This Information Sharing Agreement (ISA) has been developed between the Chief Constable of Essex Police, of Police Headquarters, PO Box 2, Chelmsford CM2 6DA and the Police, Fire and Crime Commissioner for Essex (the 'PFCC'<sup>1</sup>) of Kelvedon Park, London Road, Rivenhall, Witham, Essex CM8 3HB hereafter termed 'parties' to explain:

- why the parties have agreed to share information;
- the legal justification behind the sharing;
- who, within each party, has managerial oversight and responsibility for the information sharing;
- which information may be shared;
- the processes for sharing;
- the use of shared information;
- the PFCC's access to the Essex Police IT Infrastructure and associated information;
- how miscellaneous matters will be managed.

This version of the ISA replaces all previous versions of this document.

For the purposes of this ISA the term 'sharing' information means providing or disclosing information to the other party by any means.

This ISA is designed to provide clarity and reassurance to both parties by setting out the administrative processes by which sharing will occur.

Information shared under this ISA will comprise of some information that is defined as 'personal data' under Data Protection Act 2018 and UK General Data Protection Regulation 2016 (UK GDPR) and the ISA helps support both parties' compliance with that legislation.

In October 2017 the Essex PCC took on joint governance role for the Essex County Fire and Rescue Service and since that point has become the Police, Fire and Crime Commissioner for Essex (PFCC). This ISA refers to dealings between the PFCC and Essex Police. Information sharing between the PFCC and the Essex County Fire and Rescue Service is subject to a separate ISA.

Both organisations are subject to the Data Protection Act 2018 and UK GDPR and consequently they have appointed Data Protection Officers who may provide guidance and advice on information sharing and associated policy and procedure.

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<sup>1</sup> For the purposes of this ISA the term PFCC is used to encompass the person elected as the Police, Fire and Crime Commissioner for Essex and any staff authorised to work for or on their behalf or under their direction and control.

## **Why the parties have agreed to share information**

The Police Reform and Social Responsibility Act 2011 created the role of PCC for each of the police forces in England and Wales and set out the functions that the PCC must discharge.

The Policing and Crime Act 2017 obliges 'Blue Light Services' to collaborate more effectively. Following public consultation, the submission of a business case and approval by the Home Office, the PCC for Essex took on joint governance of the Essex County Fire and Rescue Service in October 2017, becoming the Essex Police, Fire & Crime Commissioner, Fire and Rescue Authority as well as the Police, Fire and Crime Commissioner for Essex.

In order for the PFCC to discharge those functions there is a requirement for some information in the possession of Essex Police to be shared with the PFCC. A reciprocal sharing of some information from the PFCC to Essex Police may also be required to assist in the discharge of the PFCC's functions.

This ISA is not intended to cover a) information sharing between the PFCC and the Essex Police, Fire and Crime Panel or b) information sharing between the Essex Police, Fire and Crime Panel and Essex Police. Both a) and b) are the subject of separate ISAs.

## **How the sharing can be legally justified**

The legal justification for the sharing of information between Essex Police and the PFCC is derived from the Police Reform and Social Responsibility Act and the Policing Protocol Order 2023. That Order is an outcome of Section 79 of the Police Reform and Social Responsibility Act 2011 which requires the Secretary of State to issue a Policing Protocol, namely a document setting out, or otherwise making provision about, the ways in which relevant persons should exercise or refrain from exercising functions so as to encourage, maintain or improve working relationships or limit or prevent the overlapping or conflicting exercise of functions. "Relevant persons" for these purposes are the Secretary of State (in the exercise of their policing functions), elected local policing bodies (namely police and crime commissioners; police, fire and crime commissioners and the Mayor's Office for Policing and Crime), chief officers of police forces maintained by elected local policing bodies, and police and crime panels. These persons must have regard to the Policing Protocol in exercising their functions.

Paragraph 19 of that Statutory Instrument states:

*"In order to enable the PCC to exercise the functions of their office effectively, they will need access to information and officers and staff within their force area. Such access to any information must not be unreasonably withheld or obstructed by the Chief Constable and / or fetter the Chief Constable's direction and control of the force."*

In order for Essex Police to provide information to the PFCC the PFCC will, on occasions, need to make requests for information, and those requests themselves may be considered information sharing.

## Managerial Oversight for the Information Sharing

Managerial Oversight of the information sharing under this ISA will be conducted by the individuals identified in the following paragraphs.

In the case of Essex Police the force's Head of Analysis will perform that role.

For the PFCC that role will be conducted by the Strategic Head of Policy and Public Engagement, as the PFCC's Senior Information Risk Owner.

Both individuals are responsible for the management and revision of this ISA and ensuring compliance with it.

Sharing of information on a day-to-day basis under this ISA will generally be undertaken by other individuals and processes described in Section 6.

## Information that may be shared

As a broad principle any information within the possession of Essex Police may be considered for sharing with the PFCC.

That said, information will only be shared by Essex Police with the PFCC where **all** of the following apply:

- the sharing is reasonably required to assist the PFCC in exercising the functions of their office (as legally defined) effectively;
- the sharing would not fetter, restrict or restrain the Chief Constable's direction and / or control of Essex Police, nor prejudice ongoing or potential investigations or prosecutions by Essex Police or other parties, and
- the sharing would not contradict any legal obligation upon Essex Police that precludes sharing.

Information will be shared by the PFCC with Essex Police where necessary to exercise the PFCC's functions or where thought necessary to assist the 'policing purpose'.

## Processes for sharing

The detailed processes for sharing information between Essex Police and the PFCC will continue to be developed by both parties at regular appropriate intervals and may be documented in future revisions of this ISA.

Information will be shared in accordance with any of the following basic process models, with the most appropriate option used according to the circumstances:

- **Request and Respond** – the PFCC will approach Essex Police to request information they believe the latter does, or may, hold. This could be via telephone, email, letter, arising from a meeting, or by use of a form. Essex Police will then respond to the PFCC by any of those means.
- **At a Meeting** – a meeting (with terms of reference, agenda etc.) will be held to which representatives of the PFCC and Essex Police will be invited. The parties will attend with their information likely to be of interest to the other



party. During the course of the meeting parties will disclose relevant information as necessary.

- **‘Self-Service’** – Essex Police will permit the PFCC to have direct access to its information (usually via the Essex Police IT infrastructure) and the PFCC will obtain the information through that process. Access to the Essex Police IT infrastructure is detailed more fully in Section 8 of this agreement.
- **Digital Feed** – Essex Police will automatically provide the PFCC with information digitally via an IT infrastructure, usually on a regular, repeated basis.

Information shared will be provided in any of the following formats, with the most appropriate option used according to the circumstances:

- Verbally (e.g. either face to face or online meetings or via the telephone).
- Digitally – e.g. via email, text, through access to an IT System, via digital media, via screen etc.
- Hard copy – e.g., via completed forms, print outs, or other documents.

The sharing will be undertaken by either of the individuals identified in Section 4, and any other individuals nominated by them as being permitted to do so. The parties may provide each other with the names and contact details of such individuals upon request.

It is the responsibility of each signatory to ensure that appropriate staff training and awareness sessions are provided in relation to this ISA.

## Use of Shared Information

Any information shared under this ISA may only be used by:

- the PFCC for the purposes of the effective exercise of the PFCC’s functions (as legally defined)<sup>2</sup> or as otherwise required by, or under, any rule of law.
- Essex Police in the support of the PFCC’s functions, or for ‘the policing purpose’ or as otherwise required by, or under, any rule of law.

Any information shared under this ISA will not be used in a manner that contradicts any prohibition on further disclosure including, where applicable, the common law duty of confidence. Shared information will be accessed by individuals or disclosed to them on a ‘need-to-know’ basis.

Both parties will pay due regard to the protective marking applied to shared information under the Government Security Classification Scheme.

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<sup>2</sup> Essex Police recognises that this means, subject to consideration, that some information shared with the PFCC may be required to be further shared by the PFCC with the Essex Police, Fire and Crime Panel.

As separate 'controllers' both parties are individually obliged to ensure that information received from the other party which is 'personal data' is 'processed'<sup>3</sup> in accordance with the requirements of the Data Protection Act 2018 and UK GDPR.

## **Breaches**

Any breaches of security, confidentiality or other violations of shared data must be reported to the owning party as soon as possible and in any case within 24 hours.

Any breach of information by a signatory partner is their responsibility. Each party is accountable for any misuse of information supplied and the consequences of such misuse.

The parties shall provide reasonable assistance as is necessary to each other to facilitate the handling of any data security breach. In the event of a dispute or claim brought by a data subject or the Data Protection Authority concerning the processing of shared personal data against either or both parties, the parties will inform each other about any such disputes or claims and will cooperate with a view to settling them amicably in a timely fashion.

## **PFCC Access to the Essex Police IT Infrastructure**

Essex Police provides the PFCC with access to the Essex Police IT Infrastructure to:

- facilitate 'self-service' information sharing (see Section 5), and
- provide the PFCC with an IT infrastructure for the PFCC's own organisational purposes, including use of email, intranet, extranet, and internet.

Access to the IT infrastructure by the PFCC is subject to the PFCC agreeing to comply with the following relevant Essex Police Policy and Procedures:

- W 1000 Policy – Information Management & Assurance
- W 1001 Procedure – ICT Acceptable Use
- W 1002 Procedure – User Account Management
- W 1004 Procedure – Incident Reporting & Management
- W 1006 Procedure - Government Security Classification Scheme
- W 1008 Procedure – Physical Security
- W 2013 Procedure – Appropriate Access and Use of Police Information

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<sup>3</sup> As defined in the Data Protection Act 2018 and UK GDPR

Essex Police will not access the PFCC's IT infrastructure (a sub-set of the Essex Police IT infrastructure) except where necessary for the maintenance of that infrastructure.

## Miscellaneous Matters

Both parties:

- Agree to the requirements placed upon them and others within their organisations by this ISA.
- Agree that they may withdraw from the ISA upon giving written notice to the other signatory. A party which withdraws must continue to comply with the terms of this ISA in respect of any information that the party has obtained through being a signatory. Information which is no longer relevant should be returned or destroyed in an appropriate manner.
- Agree to review the ISA as necessary. The review will be initiated by either of the individuals listed in section 4. They will consider whether the ISA is still useful and fit for purpose, identify any emerging issues, and determine whether the ISA should be extended for a further period or whether to terminate it. The decision to extend or terminate the ISA, and the reasons, will be recorded.
- Agree to respect any handling requirements, for example those arising from the use of the Government Security Classification Scheme.
- Agree that when an information security incident or potential incident occurs within the PFCC which involved the disclosure or loss of information derived from Essex Police or is facilitated through the PFCC's access to the Essex Police IT infrastructure, the PFCC's Data Protection Officer will inform the Essex Police Data Protection Office soon as possible after the event is detected. In the latter's absence the PFCC's Data Protection Officer will inform the on-call Professional Standards Department lead via the Force Control Room. A reciprocal arrangement will be followed should there be any information security incident involving information derived from the PFCC.
- Agree that all PFCC staff, Essex Police Officers and Staff will be vetted to the appropriate level in accordance with the NPCC Vetting Policy, except where precluded by any rule of law, prior to having access to information derived from the other party.
- Agree that should they receive any request for information, such as a Freedom of Information request, Data Protection Subject Access Request, or under any other under rule of law that encompasses information provided by the other party they will advise the providing party as soon as possible, and in any case prior to the disclosure of the information, in order that the potential implications of responding to the request can be fully assessed and any necessary remedial actions initiated. Liaison will be between the two organisations' Data Protection Officers.

- Agree that should they receive any complaint concerning information provided by the other party they will advise the other party as soon as possible, and in any case prior to responding to the complaint in accordance with their organisation’s complaints procedures.
- Agree to share letters and digital communications from Members of Parliament (and those of similar standing) with the other party to this agreement where the content and response falls within their respective responsibilities, with appropriate consent obtained and fairness requirements met as is necessary. Where a letter or digital communication contains operational matters Essex Police will provide the PFCC with a response to that matter, and the PFCC will respond to the communication.
- Agree to provide all staff involved with information sharing under this ISA with sufficient training and guidance to enable them to comply with this ISA.
- Agree that this ISA may be made available to the public in its entirety.

### **Signatories of this agreement**

By signing this agreement, all signatories acknowledge and accept the requirements placed upon them and others within their organisations by the agreement.

Signed on behalf of the PFCC

By .....

Signatory’s title, name and position .....

Date signed .....

Signed on behalf of Essex Police

By .....

Signatory’s title, name and position .....

Date signed .....

## **Schedule 3**

### **Information Sharing Protocol**

**Police, Fire and Crime Commissioner for  
Essex**

**and**

**Police, Fire and Crime Panel for Essex**

## 1 Introduction

This Information Sharing Protocol (ISP) has been developed between the Police, Fire and Crime Commissioner for Essex (the 'PFCC<sup>4</sup>') and the Police, Fire and Crime Panel for Essex ('the Panel') or hereafter termed 'parties' to explain:

- Why the parties have agreed to share information;
- The legal justification behind the sharing;
- Who, within each party, has managerial oversight and responsibility for the information sharing;
- Which information may be shared;
- The processes for sharing;
- The use of shared information;
- How miscellaneous matters will be managed.

This version of the ISP replaces all previous versions of this document.

For the purposes of this ISP the term 'sharing' information means providing or disclosing information to the other party by any means.

This ISP is designed to provide clarity and reassurance to both parties by setting out the administrative processes by which sharing will occur.

Information shared under this ISP will comprise of some information that is defined as 'personal data' under Section 1 of the Data Protection Act 2018 and the UK General Data Protection Regulation 2016 (UK GDPR) and the ISP helps support both parties' compliance with that legislation.

In October 2017 the Essex Police and Crime Commissioner took on a single governance role for the Essex County Fire and Rescue Service and since that point has become the Police, Fire and Crime Commissioner (PFCC). In line with this change the Essex Police and Crime Panel is now called the Essex Police, Fire and Crime Panel. The PFCC is two separate legal entities, one with responsibilities for the police and the other being the fire and rescue authority. This protocol applies to both entities.

The Panel is a joint committee of the 15 Essex local authorities which is administered and supported by Essex County Council which has entered into a grant agreement with the Home Secretary under which the Panel receives funding for its activities. Both the PFCC and the Panel are subject to the Data Protection Act 2018 and the UK GDPR. The PFCC and Essex County Council have each appointed a Data Protection Officer (DPO) who may provide guidance and advice on information sharing and associated policy and procedure.

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<sup>4</sup> For the purposes of this ISP the term PFCC is used to encompass the person elected as the Essex Police, Fire and Crime Commissioner and any staff authorised to work for or on their behalf or under their direction and control.

## **2 Why the parties have agreed to share information**

The Police Reform and Social Responsibility Act 2011 created the role of PCC for each of the police forces in England and Wales (excluding London) and set out the functions that the PFCC and the PFCP must discharge.

The Policing and Crime Act 2017 obligates 'blue light services' to collaborate more effectively. Following public consultation, the submission of a business case and approval by the Home Office, the PCC for Essex took on single governance of the Essex County Fire and Rescue Service in October 2017, becoming the Essex Police, Fire and Crime Commissioner, Fire and Rescue Authority. Equally, the Essex Police and Crime Panel scrutinises the PFCC and is now the Essex Police Fire and Crime Panel (PFCP).

For the PFCP to discharge those functions there is a requirement for some personal data in the possession of the PFCC to be shared with the PFCP. A reciprocal sharing of some personal data from the PFCP to the PFCC may also be required to assist in the discharge of the PFCC's functions.

This ISP is not intended to cover a) information sharing between the PFCC and Essex Police or b) information sharing between the Essex Police, Fire and Crime Panel and Essex Police or the Independent Office of Police Conduct.

## **3 How the sharing can be legally justified**

The legal justification for the sharing of personal data between the PFCC and the PFCP is derived from the Police Reform and Social Responsibility Act 2011 and the Policing Protocol Order 2023.

That Order is an outcome of Section 79 of the Police Reform and Social Responsibility Act 2011 which required the Secretary of State to issue a Policing Protocol, namely a document setting out, or otherwise making provision about, the ways in which relevant persons should exercise or refrain from exercising functions so as to encourage, maintain or improve working relationships or limit or prevent the overlapping or conflicting exercise of functions.

"Relevant persons" for these purposes are the Secretary of State (in the exercise of their policing functions), elected local policing bodies (namely police and crime commissioners and the Mayor's Office for Policing and Crime), chief officers of police forces maintained by elected local policing bodies, and police and crime panels. These persons must have regard to the Policing Protocol in exercising their functions.

Paragraph 24 of the Protocol Order relates to Police and Crime Panels and states:

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

...

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

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

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

..."

In order for the PFCC to provide information to the PFCP, the PFCP will, on occasion, need to make requests for information and those requests themselves may be considered information sharing.

#### **4 Managerial Oversight for the Information Sharing**

Managerial oversight of the sharing of personal data under this ISP will be conducted by the individuals identified in the following paragraphs:

In the case of PFCC, the Strategic Head of Policy and Public Engagement, Darren Horsman, as the PFCC's Senior Information Risk Owner, will perform that role. He is based at the office of the Police, Fire and Crime Commissioner and may be contacted by email at [darren.horsman@essex.police.uk](mailto:darren.horsman@essex.police.uk).

For the PFCP that role will be conducted by the Head of Democracy and Transparency at Essex County Council, currently Joanna Boaler. The Head of Democracy and Transparency is based at the offices of Essex County Council (County Hall, Chelmsford) and may be contacted by email at [democratic.services@essex.gov.uk](mailto:democratic.services@essex.gov.uk).

Both individuals are responsible for the management of this ISP and ensuring compliance with it. Sharing of information on a day-to-day basis under this ISP will generally be undertaken by other individuals and methods described in Section 6.

#### **5 Information that may be shared**

As a broad principle any information within the possession of the PFCC may be considered for sharing with the Panel.

However, personal data will only be shared by the PFCC with the PFCP where **all** of the following apply:

- a) The sharing is reasonably required to assist the PFCP in the exercising of its functions (as legally defined) effectively;
- b) The sharing would not contradict any legal or contractual obligation upon the PFCC that precluded sharing, and
- c) The sharing would not, in the view of the PFCC, fetter, restrict or restrain the Chief Constable's or the Chief Fire Officer's / Chief Executive's direction and / or control of Essex Police or the Essex



County Fire and Rescue Service respectively, nor prejudice ongoing or potential investigations or prosecutions by Essex Police or other parties.

Information will be shared by the PFCP with the PFCC where necessary to exercise the PFCC's or PFCP's functions or where thought necessary to assist the 'policing purpose'.

## **6 Processes for sharing**

The detailed processes for sharing information between the PFCC and the PFCP will be developed by both parties at regular, appropriate intervals and may be documented in a further iteration of this ISP.

Information will be shared in accordance with any of the following basic process models, with the most appropriate option used according to the circumstances:

- a) **Request and Respond** – the PFCP will approach the PFCC to request information it believes the latter does, or may, hold. This could be via telephone, email, fax, letter, a list of actions arising from a meeting, or by use of a form. The PFCC would then respond to the PFCP by any of those means.
- b) **At a Meeting** – a formal meeting (with terms of reference, agenda etc.) will be held by the PFCP to which the PFCC (and on occasions the Chief Constable and / or the Chief Fire Officer) will be invited. The parties will attend with their information likely to be of interest to parties. As a part of this agreement all parties accept that confidentiality is implicit. During the course of the meeting parties disclose relevant information as necessary.

Information shared will be provided in any of the following formats, with the most appropriate option used according to the circumstances:

- Orally (e.g. either face to face meetings or via the telephone).
- Digitally (e.g. via email, text, through access to an IT system, via digital media, via screen etc.)
- Hard copy (e.g. via completed forms, print outs, other documents)

The sharing will be undertaken by either of the individuals identified in Section 4 and any other individuals nominated by them as being permitted to do so. The parties will provide each other with the names and contact details of such individuals and will revise those lists as necessary.

## **7 Use of Shared Information**

Any information shared under this ISP may only be used by:

- a) The PFCP for the purposes of the effective exercise of the PFCP's functions (as legally defined) or as otherwise required by, or under, any rule of law.
- b) The PFCC in support of the Panel's functions, or for 'the policing purpose' or as otherwise required by, or under, any rule of law.

Any information shared under this ISP will not be used in a manner that contradicts any prohibition on further disclosure including, where applicable, the common law duty of confidence. Shared information will be accessed by individuals on a 'need to know' basis.

Both parties will pay due regard to the protective marking applied to shared information under the Government Security Classification Scheme.

As separate 'data controllers' both parties are individually obliged to ensure that information received from the other party which is 'personal data' is 'processed'<sup>5</sup> in accordance with the requirements of the Data Protection Act 2018 and UK GDPR.

## **8 Breaches**

Any breaches of security, confidentiality or other violations of shared personal data must be reported to the owning party as soon as possible and in any case within 24 hours.

Any breach of information by a party is their responsibility. Each party is accountable for any misuse of personal data shared and the consequences of such misuse.

The parties shall provide reasonable assistance as is necessary to each other to facilitate the handling of any data security breach. In the event of a dispute or claim brought by a data subject or the Data Protection Authority concerning the processing of shared personal data against either or both parties, the parties will inform each other about any such disputes or claims and will cooperate with a view to settling them amicably in a timely fashion.

## **9 Miscellaneous Matters**

Both parties:

- Agree that they may withdraw from the ISP upon giving written notice to the other party. A party who withdraws must continue to comply with the terms of this ISP in respect of any personal data that the party has obtained through being a signatory. Information which is no longer relevant should be returned or destroyed in an appropriate manner.
- Agree to review the ISP as necessary. The review will be initiated by either of the individuals listed in section 4. They will consider whether the ISP is still useful and fit for purpose, identify any emerging issues and determine whether the ISP should be extended for a further period or

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<sup>5</sup> As defined in the Data Protection Act 2018

whether to terminate it. The decision to extend or terminate the ISP, and the reasons, will be recorded.

- Agree to respect any handling requirements, for example those arising from the use of the Government Security Classification Scheme.
- Agree that, should they receive any request for information, such as a Freedom of Information request, Data Protection Subject Access request, or under any other rule of law that encompasses information provided by the other party, they will advise the providing party as soon as possible. In any case communication between the parties should be prior to disclosure of the information, so that the potential implications of responding to the request can be fully assessed and any necessary remedial actions initiated.
- Agree that, should they receive any complaint concerning personal data provided by the other party they will advise the other party as soon as possible and in any case prior to responding to the complaint.
- Agree to provide all staff involved with information sharing under this ISP with sufficient training and guidance to enable them to comply with this ISP.
- Agree that this ISP may be made available to the public in its entirety.

## **Schedule 4**

Revised Financial Management Code of Practice For the Police Forces of England and Wales and Fire and Rescue Authorities created under section 4A of the Fire and Rescue Services Act 2004.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/727772/CCS207\\_CCS0718021968-001\\_HO\\_FMCP\\_2018\\_Print\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727772/CCS207_CCS0718021968-001_HO_FMCP_2018_Print_.pdf)

## **Schedule 5**

# **Police, Fire and Crime Commissioner for Essex**

## **Scheme of Delegation and Scheme of Consent**

June 2023

## **PART 1**

### **Scheme of Delegation**

#### **THE POLICE, FIRE AND CRIME COMMISSIONER (PFCC) FOR ESSEX**

##### **Introduction**

The Scheme of Delegation details the key roles of the Police, Fire and Crime Commissioner (the “PFCC”), and those functions which s/he delegates to the Chief Executive and Monitoring Officer, Chief Finance Officer, Strategic Heads, Senior Information Risk Owner (SIRO), Finance Manager and the Deputy PFCC.

This Scheme of Delegation forms part of the Police, Fire and Crime Commissioner’s governance framework to ensure that business is carried out efficiently without unnecessarily delaying decisions.

The powers set out in this Scheme of Delegation should be exercised in accordance with the PFCC’s consent, the law, standing orders and financial regulations, and also policies, procedures, plans, strategies and budgets.

This Scheme of Delegation does not identify all the statutory duties which are contained in specific legislation and regulation.

Words denoting the singular shall include the plural and vice versa, words denoting the masculine gender shall include the feminine gender and vice versa.

##### **Public Accountability**

Public accountability for the delivery and performance of the Essex Police force is placed into the hands of the PFCC on behalf of the electorate. The PFCC draws on their statutory duty and electoral mandate to set and shape the strategic objectives of their force area in consultation with the Chief Constable. The PFCC is accountable to the electorate; the Chief Constable is accountable to the PFCC.

##### **1. Key roles of the PFCC**

1.1 The PFCC has a statutory duty and electoral mandate to hold Essex Police to account on behalf of the public.

1.2 The PFCC is the recipient of all funding, including the government grant and precept and other sources of income related to policing and crime reduction and all funding for the force must come via the PFCC. How this money is allocated is a matter for the PFCC in consultation with the Chief Constable, or in accordance with any grant terms. The Chief Constable will provide professional advice and recommendations.

1.3 The PFCC has the legal power and duty to:

- (a) set the strategic direction and objectives of the Essex Police force through the Police and Crime Plan (the “Plan”), which must have regard to the Strategic Policing Requirement set by the Home Secretary;
- (b) scrutinise, support and challenge the overall performance of the force including against the priorities agreed within the Plan;
- (c) hold the Chief Constable to account for the performance of the force’s officers and staff;
- (d) decide the budget, allocating assets and funds to the Chief Constable; and set a precept for the force area, using a local scheme of governance which does not fetter the effective financial management of the force and enables the Chief Constable to deliver their role efficiently and effectively;
- (e) appoint the Chief Constable;
- (f) suspend and remove the Chief Constable, subject to following the process set out in Part 2 of Schedule 8 of the Police Reform and Social Responsibility Act 2011 and regulations made under section 50 of the Police Act 1996;
- (g) maintain an efficient and effective police force for Essex;
- (h) enter into collaboration agreements with other PCCs / PFCCs, other policing bodies and partners that improve the efficiency or effectiveness of policing for one or more policing bodies or police forces in consultation with the Chief Constable. Where this relates to the functions of the police force, then it must be with the agreement of the Chief Constable;
- (i) provide the local link between the police and communities, working towards translating the legitimate desires and aspirations of the public into action;
- (j) hold the Chief Constable to account for the exercise of the functions of the office of Chief Constable and the functions of the persons under the direction and control of the Chief Constable;
- (k) publish information specified by the Secretary of State and information that the PFCC considers necessary to enable the people who live in the force area to assess the performance of the PFCC and Chief Constable;
- (l) comply with all reasonable formal requests from the Police, Fire and Crime Panel to attend its meetings;
- (m) prepare and issue an annual report on the PFCC’s delivery against the objectives within the Plan, and

- (n) monitor all complaints made against officers and staff, whilst having responsibility for complaints against the Chief Constable
- 1.4 The PFCC must not fetter the operational independence of the Essex Police force and the Chief Constable who leads it.
- 1.5 In order to exercise the functions of their office effectively, the PFCC will need access to information and officers and staff within the force area. Such access to any information must not be unreasonably withheld or obstructed by the Chief Constable and / or fetter the Chief Constable's discretion and control of the force.
- 1.6 A PFCC has wider responsibilities than those relating solely to the police force, namely:
  - (a) A specific responsibility for the delivery of community safety and crime reduction;
  - (b) The ability to bring together Community Safety Partnerships (CSPs) at the force level;
  - (c) The power to provide or arrange the provision of -
    - (i) services that, in the opinion of the PFCC, will secure, or contribute to securing, crime and disorder reduction in the Essex Police force area;
    - (ii) services that are intended by the PFCC to help victims or witnesses of, or other persons affected by, offences and anti-social behaviour;
    - (iii) services of a description specified in an order made by the Secretary of State;
  - (d) The duty to ensure that all collaboration agreements deliver better value for money or enhance the effectiveness of policing capabilities and resilience, and
  - (e) A wider responsibility for the enhancement of the delivery of criminal justice in their area.
- 1.7 The PFCC is a corporation sole which owns all the assets, land and buildings upon it including all rights and liabilities which derive from that ownership whether or not in the possession and use of the Chief Constable as a corporation sole.
- 1.8 The PFCC will be held to account by the Police, Fire and Crime Panel (the "Panel") which will scrutinise his / her decisions.



1.9 The PFCC may appoint a deputy to exercise their functions, with the exception of those functions which cannot be delegated detailed within paragraph 2.10.

1.10 The PFCC may also arrange for any person who is not the Deputy PFCC to exercise any function of the Commissioner, whether or not there is a Deputy PFCC.

## **2. General Principles of Delegation**

2.1 The PFCC may ask that a specific matter is referred to him / her for a decision and not dealt with under this Scheme of Delegation.

2.2 This Scheme does not attempt to list all matters which form part of the everyday management responsibilities.

2.3 Any person to whom powers have been delegated under this Scheme may refer the matter back to the PFCC for a decision if that person thinks this is appropriate, for example, due to sensitive issues or significant financial implications. The PFCC expects anyone exercising delegated powers under this Scheme to draw their attention to any issue that is likely to be regarded by them as contentious or potentially repercussive before exercising such powers. This includes significant financial liabilities.

2.4 Except where excluded by statute or otherwise specified within this Scheme of Delegation, any person to whom a power is delegated under this Scheme may sub-delegate that power as they deem appropriate. However, formal responsibility and accountability for the effective discharge of sub-delegated powers legally remains with the person to whom the power was delegated by the PFCC.

2.5 When a person is considering a matter that impacts upon another person's area of responsibility, they should consult that person before proceeding with any decision.

2.6 All decisions made under delegations from the PFCC must be recorded and available for inspection. The PFCC may require their staff to report on the actions undertaken by them in respect of the use of powers delegated to them and has the discretion to limit and / or withdraw the powers delegated by them at any time, provided that the reasons for doing so are documented in writing.

2.7 The Chief Executive of the PFCC is responsible for ensuring that the PFCC's staff are aware of the provisions and obligations of this Scheme of Delegation.

2.8 The Chief Executive and Monitoring Officer and the Chief Finance Officer of the PFCC have statutory powers and duties relating to their positions and therefore do not rely on delegations in order for these powers and duties to be executed.

2.9 This Scheme of Delegation provides the Chief Executive, the Chief Finance Officer, Strategic Heads, Finance Manager, Senior Information Risk Owner (SIRO) or Deputy PFCC with the authority to undertake the duties of the PFCC.

Whilst undertaking these duties the officer must comply with all other relevant statutory and regulatory requirements as well as:

- a) The Police and Social Responsibility Act 2011 and other relevant legislation and regulations issued under this Act
- b) Financial Regulations (including the Contract Standing Orders)
- c) Home Office Financial Management Code of Practice for the police service
- d) CIPFA Statement on the role of the Chief Finance Officer of the PFCC
- e) The Public Contracts Regulations 2015
- f) PFCC and Essex Police employment policies and procedures
- g) The PFCC's Constitution
- h) The Data Protection Act 2018, UK General Data Protection Regulation and the Freedom of Information Act 2000
- i) Health and Safety at Work legislation and codes
- j) Equality Act 2010 and related equality and diversity regulations and guidance

2.10 The PFCC and their staff must have regard to the following (this list is indicative only and should not be considered to be exhaustive):

- a) The views of the communities in Essex
- b) Any report or recommendation made by the Police, Fire and Crime Panel on the annual report for the previous financial year.
- c) The Police and Crime Plan and any guidance issued by the Secretary of State.

2.11 The following functions may not be delegated by the PFCC:

- a) Issuing the Police and Crime Plan
- b) Calculation of budget requirements
- d) Appointing the Chief Constable, suspending the Chief Constable or calling upon the Chief Constable to retire or resign
- e) Exercise of the functions that the PFCC has under virtue of Part 2 of the Police Reform Act 2002 (Complaints and Misconduct) (see instead section 23 (2) of that Act and regulations made under that provision).

2.12 The following functions may only be delegated by the PFCC to the Deputy PFCC:

- a) Determining the police and crime objectives
- b) Attendance at the Police, Fire and Crime Panel in compliance with a requirement by the Panel to do so
- c) Preparing the Annual Report to the Police, Fire and Crime Panel

2.12 This scheme is a record of the formal consents that are in effect at the time of its publication. The PFCC's Constitution, including the Scheme of Delegation, will be reviewed biennially.

### **3. Functions delegated to the Deputy Police, Fire and Crime Commissioner**

3.1 The PFCC may appoint a deputy ("Deputy PFCC") to exercise their functions, with the exception of those detailed in paragraph 2.10.

3.2 The Deputy PFCC may arrange for any other person to exercise any function of the PFCC which is exercisable by the Deputy PFCC, subject to section 18 (5) of the Police Reform and Social Responsibility Act 2011.

### **4. Functions delegated to the Chief Executive of the Police, Fire and Crime Commissioner**

4.1 To act as Monitoring Officer under section 5(1) of the Local Government and Housing Act 1989.

4.2 To act as the designated Head of Paid Service for the PFCC's staff under section 4 of the Local Government and Housing Act 1989.

4.3 To prepare the Police and Crime Plan in consultation with Essex Police for submission to the PFCC.

4.4 To prepare an Annual Report on progress against the Police and Crime Plan for submission to the PFCC.

4.5 To provide information to the Police, Fire and Crime Panel as appropriate to enable the Panel to carry out its functions.

4.6 To consider and approve, in consultation with the Chief Finance Officer, the provision of indemnity and / or insurance to the PFCC, Deputy PFCC or any other individual member of staff in accordance with the Local Authorities (Indemnities for Members and Officers) Order 2004.

4.7 To obtain legal or other expert advice on matters pertaining to the PFCC, including making arrangements to approve and appoint external solicitors and Counsel to represent the PFCC from time to time.

## Financial

4.8 To manage the PFCC's budget, along with the Chief Finance Officer.

## Human Resources

4.9 To undertake the recruitment and management of staff who are not employed by the Chief Constable in accordance with agreed policies and procedures, with the exception of the Deputy Police, Fire and Crime Commissioner where appointed.

4.10 To take day to day action to ensure the efficient and effective management of the PFCC's staff, including the discipline and dismissal of all staff, with the exception of the Deputy Police, Fire and Crime Commissioner where appointed.

4.11 To appoint Independent Custody Visitors, Police Dog Welfare Visitors, Restorative Justice Facilitators and other volunteers, and to suspend and terminate appointments thereof as necessary.

4.12 To oversee and ensure the efficient and effective management of complaints against the PFCC's staff and volunteers.

## Other

4.13 To authorise the instigation, defence, withdrawal or settlement of any claims or legal proceedings on behalf of the PFCC, in consultation with a legal advisor and the Chief Finance Officer if there are significant financial implications.

4.14 To consider any complaint made against the Chief Constable. They may sub-delegate this power to another member of the PFCC's staff team appointed for this purpose or, where appropriate, make arrangements for appointing an officer to investigate the complaint.

## **5. Functions delegated to the PFCC's Strategic Head of Performance and Resources (Chief Finance Officer)**

5.1 The Chief Finance Officer to the PFCC has a statutory responsibility to manage the PFCC's financial affairs as detailed in section 151 of the Local Government Act 1972, section 73 of the Local Government Act 1985 and section 112 of the Local Government Finance Act 1988.

5.2 The Chief Finance Officer must ensure that the financial affairs of the PFCC are properly administered having regard to their probity, legality and relevant standards.

5.3 The functions delegated to the Strategic Head of Performance and Resources (Chief Finance Officer) are to:

(a) Produce and provide day to day management of a treasury management strategy and supporting policies and procedures.

- (b) Make arrangements for securing and preparing the PFCC's accounts, and seek assurances that there are appropriate arrangements in place for the force's accounts.
- (c) Prepare the PFCC's budget for submission to the PFCC
- (d) Approve the opening of all bank accounts
- (e) Undertake the day-to-day management of the PFCC's budget.
- (f) Commit expenditure within the PFCC's approved budget to meet the policies and objectives agreed with the PFCC and reflected in the Police and Crime Plan.
- (g) Manage grants awarded to the PFCC.
- (h) Act as money laundering reporting officer under the Proceeds of Crime Act 2002 and Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payee) Regulations 2017 or other appropriate legislation from time to time in force.
- (i) Prepare and review financial regulations, in consultation with and having due regard to the views of the force, for approval by the PFCC.
- (j) Prepare and review an expenses and benefits framework for approval by the PFCC.
- (k) Determine when any goods are surplus to requirements or obsolete and arrange for disposal in line with financial requirements.
- (l) Report to the PFCC and the external auditor any unlawful or potentially unlawful spending by their, or the force's, officers.
- (m) Provide for an effective internal audit service.
- (n) To consider and approve, in consultation with the Chief Executive and Monitoring Officer, the provision of indemnity and / or insurance to the PFCC, Deputy PFCC or any other individual member of staff in accordance with the Local Authorities (Indemnities for Members and Officers) Order 2004.
- (o) Review the outcomes of complaints recorded under Schedule 3 to the Police Reform Act 2002. They may sub-delegate this power to another member of the PFCC's staff team appointed to carry out such reviews, or to an independent reviewer appointed for the consideration of such reviews.

## **6. Functions delegated to the Strategic Head of Policy and Public Engagement**

6.1 To act as the statutory Monitoring Officer to the PFCC where the designated officer is unable to act owing to absence or illness.

6.2 To approve decision reports for recommendation to the PFCC at any time.

## **7. Functions delegated to the PFCC's Strategic Heads**

7.1 To approve minor scheduled reviews of and consequential amendments to existing PFCC policies and strategies, in consultation with the Monitoring Officer.

7.2 To approve the commissioning of services or expenditure on purchases of goods and services up to the value of £2,000 (except where such commissioning or expenditure is deemed to be in the public interest, in which case PFCC approval is required).

## **8. Functions delegated to the Finance Manager**

8.1 To act as the statutory Section 151 Officer to the PFCC where the designated officer is unable to act owing to absence or illness.

## **9. Functions delegated to the PFCC's Senior Information Risk Owner (SIRO)**

9.1 To approve Information Sharing Agreements and Protocols, in consultation with the Monitoring Officer.

9.2 To approve Data Protection Impact Assessments (DPIAs) on behalf of the PFCC, and to report to the PFCC on any DPIAs approved.

9.3 To ensure compliance with the requirements for publication of all aspects of the Elected Local Policing Bodies (Specified Information) Order 2011, along with the Elected Local Policing Bodies (Specified Information) (Amendment) Orders 2012, 2013 and 2021.

## **10. Urgent matters**

10.1 If any matter which would normally be referred to the PFCC (or Deputy PFCC, if appointed) for a decision arises and cannot be delayed, the matter may be decided by the appropriate chief officer.

10.2 The appropriate persons authorised to decide urgent matters are:

- a) the PFCC's Chief Executive (for all issues other than operational policing matters);
- b) the PFCC's Chief Finance Officer (for financial and related issues)

- 10.3 Urgent decisions taken must be reported to the PFCC as soon as practically possible.

## **PART 2**

### **SCHEME OF CONSENT BETWEEN THE PFCC AND CHIEF CONSTABLE**

#### **1. General**

- 1.1 The Chief Constable is a corporation sole and is responsible for employing police officers and other staff to maintain the King's peace. The Chief Constable has direction and control over the force's officers and staff.
- 1.2 The Chief Constable is accountable to the law for the exercise of police powers, and to the PFCC for the delivery of efficient and effective policing, management of resources and expenditure by the police force. At all times the Chief Constable, their constables and staff remain operationally independent in the service of the communities they serve.
- 1.3 In addition to the statutory duties of the Chief Constable (as outlined in the Police Reform and Social Responsibility Act 2011 and the Policing Protocol Order 2023), the PFCC consents to the functions set out in this Scheme being undertaken by the Chief Constable in their own name and as a separate legal entity.
- 1.4 The Chief Constable is responsible for ensuring that the staff and officers under their direction and control are aware of the provisions and obligations of this Scheme of Consent.

#### **2. Consents**

##### **2.1 Assets and Property**

- 2.1.1 The PFCC is the corporation sole which owns all the assets, land and buildings upon it including all rights and liabilities which derive from that ownership including those in the possession and use of the Chief Constable as a corporation sole. Any consent given by the PFCC to the Chief Constable to enter into contracts is given on the condition that all assets arising from the contracts are for the use and benefit of the PFCC.
- 2.1.2 The PFCC gives consent to the Chief Constable to enter into contracts involving the sale or purchase of goods and services up to £250,000, provided that:
- i. Any assets arising from the transfer are treated in accordance with 2.1.1.
  - ii. The contracts do not relate to land.
  - iii. The contracts do not involve the borrowing of money.

- iv. The contracts contain provision for the transfer of any assets to the PFCC with the rights reserved to the Chief Constable to have the use of the assets.
- v. The PFCC is advised in writing of the intention to enter into the contract at least seven days in advance. On receipt of the written notice, the PFCC may withdraw his consent to enter into the contract or become either a party or the party to the contract of which s/he has been notified.

2.1.3 The role of the PFCC outlined in Part 1 paragraph 1.3 including the specific responsibility to raise revenues, particularly through the precept which cannot be delegated, reinforce the position of retaining ownership of all assets and contracts for the benefit of the public of Essex.

## **2.2. Legal**

The PFCC gives consent to the Chief Constable in any legal proceedings involving the PFCC and / or Chief Constable to:

2.2.1 Approve the financial settlement of all claims or requests for compensation that are non-significant because:

- a) The compensation to be paid is £100,000 or less (to include multiple or linked claims / claimants); or in the case of accident claims or ex gratia payments for damage caused by officers and staff the compensation sum is £10,000 or less.
- b) They do not involve a high-profile claimant including Chief Officer rank police officers
- c) There is no significant public interest in the case
- d) The risk that the PFCC or the police force will be exposed to serious public criticism or serious weaknesses in the organisation or policies and procedures is considered low.
- e) It is not a test case.

2.2.2 Institute, defend or participate in legal actions to protect the interests of the force, the PFCC and the Police, Fire and Crime Panel.

2.2.3 Provide advice, institute and defend legal proceedings on behalf of the PFCC when requested to do so.

## **2.3 Financial Arrangements**

2.3.1 The Chief Constable may, by way of temporary loan or overdraft from a bank or otherwise, borrow sums temporarily required by the Chief Constable, but only –

- (a) for the purposes of meeting expenses pending the receipt of revenues receivable by the Chief Constable in respect of the period of account in which the expenses are chargeable,



(b) in sterling, and

(c) with the consent of the PFCC.

2.3.2 The Chief Constable –

(a) may not borrow money except as permitted by sub-paragraph 2.3.1, and

(b) may not enter into a credit arrangement.

2.3.3 The Chief Constable may invest -

(a) for any purposes relevant to the Chief Constable's functions under any enactment, or

(b) for the purpose of the prudent management of the Chief Constable's financial affairs, but only with the consent of the PFCC.

## **Schedule 6**

### **Policing Protocol Order 2023**

[The Policing Protocol Order 2023 \(legislation.gov.uk\)](#)

# Schedule 7

## Code of Conduct

May 2023  
Version V1.4

Version Control	Version 1.4	May 2023
Updated By	D Horsman	May 2023
Authorised By	R Hirst	July 2023
Published		July 2023
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### Version history

Version Number	Date	Reason for review	Comments
1.0	November 2012		First publication
1.1	April 2013	Review decided by PFCC	
1.2	November 2018	Reviewed as part of a wider review of the Constitution	Amendments reflect joint governance of the police and fire and rescue services w.e.f. October 2017
1.3	August 2021	Reviewed as part of review of Constitution	
1.4	May 2023	Reviewed as part of review of Constitution	

## PART 1

### Introduction

This Code as a whole is consistent with the seven “Nolan Principles” which are set out in Article 5 of the Constitution and is closely aligned to the local Codes of Conduct adopted by local authorities in Essex under the provisions of Section 29 (1) of the Localism Act 2011.

Essex Police and the Police, Fire and Crime Commissioner for Essex have also adopted the two further policing principles of **fairness** and **respect**.

I have adopted this Code and agree to abide by its provisions.

Any person that I may appoint as Deputy Police, Fire and Crime Commissioner (Deputy PFCC) is required to abide by the provisions of this Code also.

## **Interpretation**

1. "relevant period" means the period of 12 months ending with the day on which notification was given to the Monitoring Officer of any disclosable pecuniary interests which existed at the time of the notification.
2. "profit or gain" includes any payments or benefits in kind which are subject to Income Tax
3. "beneficial interest" means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale
4. For the purposes of this Code 'PFCC' refers to the corporate body known as the Police, Fire and Crime Commissioner for Essex

### **1.0 When Does The Code Apply?**

- (1) This Code applies to me in the elected office of Police, Fire and Crime Commissioner when acting or representing that I am acting in that role.
- (2) It also applies to the Deputy PFCC when acting or representing that s/he is acting in that role.
- (3) This Code does not apply to me or the Deputy PFCC when acting in a purely private capacity.

### **2.0 General Obligations**

2.1 I will treat others with respect and fairness.

2.2 I will uphold the law.

2.3 I will not:

- (a) do anything which may cause a breach of any of the equality enactments;
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be:

- (i) a complainant;
- (ii) a witness; or
- (iii) involved in the administration of any investigation or proceedings.

in relation to an allegation that I failed to comply with this Code of Conduct;  
or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the PFCC.
- (e) conduct myself in a manner which could reasonably be regarded as bringing my office or the elected office of the PFCC into disrepute.

### **3.0 Confidential Information**

#### **3.1 I will not:**

- (a) disclose information given to me in confidence by anyone, or information acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) I have the consent of a person authorised to give it;
  - (ii) I am required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is:
    - (a) reasonable and in the public interest; and
    - (b) made in good faith and in compliance with the reasonable requirements of the PFCC
- (b) prevent another person from gaining access to information to which that person is entitled by law.

### **4.0 Conferring an Advantage or Disadvantage**

#### **4.1 I will:**

- (a) not use or attempt to use my position improperly to confer on or secure for myself or any other person an advantage or disadvantage;
- (b) when using or authorising the use by others of the resources of the PFCC:
  - (i) Not use those resources for my personal benefit or for the benefit of myself, my friends, or any other person in relation to any business interest of mine.
  - (ii) Not use those resources improperly for political purposes (including party political purposes).

## **PART 2**

### **5.0 Disclosable Pecuniary Interests**

5.1 A Disclosable Pecuniary Interest in any business of the PFCC exists if it is of a description set out in 5.2 below and is either:

- (a) An interest of mine; or
- (b) An interest (of which I am aware) of a spouse, civil partner or a person I am living with as a spouse or civil partner (“known as Relevant Persons”).

5.2 A Disclosable Pecuniary Interest is an interest which relates to or is likely to affect:

- (a) Any employment, office, trade, profession or vocation carried on by me or a relevant person for profit or gain;
- (b) Any payment or provision of any other financial benefit (other than from the PFCC) made or provided within the relevant period in respect of any expenses incurred in carrying out my duties as a Police, Fire and Crime Commissioner, or towards any election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) Any contract for goods, services or works which has not been fully discharged between me or a Relevant Person and the PFCC or a body in which I or they have a beneficial interest;
- (d) A beneficial interest in any land in the county of Essex;
- (e) A licence of any land in the county of Essex (alone or jointly with others) that I or a relevant person occupy for a month or longer;
- (f) Any tenancy where to my knowledge
  - (i) the landlord is the PFCC and
  - (ii) the tenant is a body in which I or a Relevant Person has a beneficial interest;
- (g) Any beneficial interest in securities of a body where:
  - 1. that body (to my knowledge) has a place of business or land in the county of Essex and
  - 2. either:
    - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

- (b) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

## **6.0 Other Pecuniary Interests**

6.1 I will have a pecuniary interest in any business of the PFCC where it relates to or is likely to affect:

- (a) Any person or body who employs or has appointed me;
- (b) Any contract for goods, services or works made between the PFCC and me or a firm in which I am a partner, a company of which I am a remunerated director, or a person or body of the description specified in paragraph 5.2(g) which has been fully discharged within the last 12 months;

## **7.0. Non-Pecuniary Interests**

7.1 I will have a non-pecuniary interest in any business of the PFCC where it relates to or is likely to affect:

- (a) Any body of which I am a member or in a position of general control or management;
- (b) Any body:
  - (i) exercising functions of a public nature;
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which I am a member or in a position of general control or management;
- (c) The interests of any person from whom I have received a gift or hospitality with an estimated value of at least £50;
- (d) A decision in relation to that business which might reasonably be regarded as affecting my wellbeing or the wellbeing of a relevant person to a greater extent than the majority of other council tax-payers, ratepayers or inhabitants of the county of Essex.

## **8.0. Disclosure of Interests**

8.1 Subject to sub-paragraphs 8.3 to 8.4, I will disclose if I have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the PFCC when I am asked to make a decision as Police, Fire and Crime Commissioner.

- 8.2 I will make and record that disclosure of the existence and nature of that interest whether or not such interest is registered on my Register of Interests.
- 8.3 Sub-paragraph 8.1 only applies where I am aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.
- 8.4 Where I have an interest in any business of the PFCC which would be disclosable by virtue of paragraph 8.1 but by virtue of paragraph 11 (Sensitive Information) details of the interest are not registered in the PFCC's published Register of Interests and the interest is a Disclosable Pecuniary Interest I need not disclose the nature of the interest.

## **9.0. Effect of Interests**

### **9.1 Disclosable Pecuniary Interests**

#### **9.1.1 If I have a Disclosable Pecuniary Interest then:**

- (a) The function will not be exercised personally but will be delegated or dealt with in some other manner to ensure the conflict of interest does not arise.
- (b) I will not seek improperly to influence a decision about that the exercise of that function.

### **9.2 Other Pecuniary Interests**

#### **9.2.1 If I have another Pecuniary Interest in any business of the PFCC which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest**

- (a) The function will not be exercised personally but will be delegated or dealt with in some other manner to ensure the conflict of interest does not arise.
- (b) I will not seek improperly to influence a decision about that the exercise of that function.

## **PART 3**

## **REGISTER OF INTERESTS**

### **10.0. Registration of Interests**

#### **10.1 Subject to paragraph 11, I will, within 28 days of:**

- (a) adopting this Code, or
- (b) my election, re-election or appointment or re-appointment to office register details of:
  - (i) Disclosable Pecuniary Interests as referred to in paragraph 5.
  - (ii) Other Pecuniary Interests referred to in paragraph 6 that I have.



(iii) Non-Pecuniary Interests referred to in paragraph 7

10.2 Subject to paragraph 11, I will within 28 days of becoming aware of any new Disclosable Pecuniary Interest, Other Pecuniary Interest or any Non-Pecuniary Interest provide written notification to the PFCC's Monitoring Officer

## **11. Sensitive Information**

11.1 Where I have a Disclosable Pecuniary Interest, Other Pecuniary interest or Non Pecuniary Interest and the nature of the interest is such that I and the PFCC's Monitoring Officer consider that disclosure of details of the interest could lead to me or a person connected with me being subject to violence or intimidation if the interest is entered in the Register then copies of the Register available for inspection and any published version of the Register will not include details of the interest but may state that I have an interest details of which are withheld under this paragraph.

11.2 I will, within 28 days of becoming aware of any change of circumstances which mean that information excluded under paragraph 11.1 is no longer sensitive information, notify the PFCC's Monitoring Officer.

11.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that I or person who lives with me may be subject to violence or intimidation.

## **12. Register of Gifts and Hospitality**

12.1 I will within 28 days of receipt, notify the PFCC's Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which I have accepted from any person or body other than the PFCC.

12.2 The Monitoring Officer will place my notification on a public register of gifts and hospitality

12.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the PFCC for this purpose.

# Appendix to Schedule 7

## POLICE, FIRE AND CRIME COMMISSIONER FOR ESSEX

### REGISTER OF INTERESTS

I .....,

as Police, Fire and Crime Commissioner for Essex / Deputy Police, Fire and Crime Commissioner for Essex, have set out below under the appropriate headings my interests in accordance with the Code of Conduct referred to in Article 5 of the Constitution. I have put 'none' where I have no such interests under any heading.

<b><u>Disclosable Pecuniary Interests</u></b>	
<b>[Note: These include your own interests and also those of your husband or wife, civil partner or of any person with whom you are living as if husband and wife or as civil partners when such interests are known by you].</b>	
<u>Employment, office, trade, profession or vocation</u>  1. Your employment, office, trade, profession or vocation carried on by you or those persons referred to in the note above for profit or gain (this includes any payments or benefits in kind which are subject to Income Tax).	<u>Self &amp; Spouse / Partner:</u>
<u>Sponsorship</u>  2. Any payment or provision of any other financial benefit made or provided within the last 12 months in respect of expenses you have incurred in carrying out your duties as Police, Fire and Crime Commissioner / Deputy Police, Fire and Crime Commissioner, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.	<u>Self &amp; Spouse / Partner:</u>

<p><u>Contracts</u></p> <p>3. A description of any contract for goods, services or works made between the PFCC and you or the persons referred to above (or a body in which you or they have a beneficial interest) and which has <b>NOT</b> been fully discharged.</p>	<p><u>Self &amp; Spouse / Partner:</u></p>
<p><u>Land</u></p> <p>4. Any land in Essex in which you have a beneficial interest.</p>	<p><u>Self &amp; Spouse / Partner:</u></p>
<p><u>Licences</u></p> <p>5. Any land in Essex for which you or the persons referred to above have a licence (alone or jointly with others) to occupy for a month or longer.</p>	<p><u>Self &amp; Spouse / Partner:</u></p>
<p><u>Corporate Tenancies</u></p> <p>6. Any tenancy where to your knowledge the landlord is the PFCC and the tenant is a body in which you or a person referred to above has a beneficial interest.</p>	<p><u>Self &amp; Spouse / Partner:</u></p>
<p><u>Securities</u></p> <p>7. The name of any person or body in which you or a person referred to above has a beneficial interest in securities of that body where:</p> <p>(a) that body to your knowledge has a place of business or land in Essex; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issue share capital of that body; or</p>	<p><u>Self &amp; Spouse / Partner:</u></p>

<p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or a person referred to above has a beneficial interest exceeds one hundredth of the total issue share capital of that class.</p>	
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**Other Pecuniary Interests**

**[Note: These are your own interests only. Do not include the interests of husbands / wives / civil partners or others]**

1. The name of the person who employs or has appointed you, the name of any firm in which you are a partner, and the name of any company for which you are a remunerated director.

2. A description of any contract for goods, services or works made between the PFCC and you (or a body in which you or they have a beneficial interest) and which has been fully discharged within the last 12 months.

**Registerable Non-Pecuniary Interests**

**[Note: These are your own interests only. Do not include the interests of husbands / wives / civil partners or others]**

1. Your membership of or the fact that you are in a position of general management and control of any body:
- (a) to which you have been appointed or nominated by the PFCC.
  - (b) exercising functions of a public nature.
  - (c) directed towards charitable purposes.
  - (d) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

2. The name of any person from whom you have received a gift or hospitality with an estimated value of at least £50				
Date of Disclosure	Date of Receipt of Gift / Hospitality	Name & Address of Donor	Nature of Gift or Hospitality	Signature

I acknowledge that it may be a breach of the Code of Conduct to:

- (1) Omit information that ought to be given in this notice;
- (2) Provide information that is materially false or misleading;
- (3) Fail to provide written notification to the PFCC's Monitoring Officer of any change in my interests contained in this notice within 28 days of my becoming aware of such change of circumstances.

Name: .....

(Print – No Signature Required)

Date: .....

Date Received by MO:

Signed (by MO):

Name (Print)

.....  
Monitoring Officer of the PFCC

## EXPLANATORY NOTES

- The Code requires registration of:
  - (a) Disclosable Pecuniary Interests (DPIs) of you and your spouse / partner. There is no requirement to distinguish the two, but you may wish to do so. There is no requirement to name your spouse / partner.
  - (b) Other Pecuniary Interests of you only.
  - (c) Registerable Non-Pecuniary Interests of you only.
- You should complete the Register with sufficient detail to identify clearly what the interest is. Please avoid using abbreviations, initials or acronyms.
- You are personally responsible for the accuracy of the contents of the Register.
- Please mark “none” on the Register if you have no interest to register in any category.
- There is no requirement to sign the form, printing your name is sufficient.
- Your Register of Interests will be publicly available both in hard copy and on the PFCC’s website. Therefore please write as clearly as possible.
- Remember that you must keep your registered interests up to date. If anything changes advise the Monitoring Officer within 28 days of any change.

### **The following notes relate to the numbers on the form:**

#### **Disclosable Pecuniary Interests**

1. Enter details of your employment, trade, profession etc. carried on by you or your spouse / partner. Include full and part-time work. You do not need to register any pension rights.
2. Enter details of any sponsorship received i.e. any payment of expenses as a Member, or your elections expenses.
3. Enter details of any ongoing contracts between you (or your spouse / partner) and the PFCC. Enter a clear description of the contract.
4. You must include a clear description sufficient to identify land you register. Land includes property and buildings on land and you should include the postal address. Beneficial interest includes freehold and leasehold (tenancy) interests and any legal rights you may have over property, for example a right of way or an option to purchase. Include land in which your spouse / partner has a beneficial interest.
5. This includes grazing agreements, allotments, garage licences and other short-term arrangements to use any land or property in Essex by you or your spouse / partner.
6. Include here any land or property leased (tenanted) from the PFCC by yourself, your firm or company, or your spouse / partner.

7. If you (or your spouse / partner) own shares or other form of equity in a company or other body which has a place of business within Essex or owns land or property in Essex, you will need to consider whether the interest is to be included. Identify the nominal value; this is the amount of the share indicated on the certificate, not the market value. If this exceeds £25,000, you need to register the name of the company or body. If this is less than £25,000 but the holding is more than 1% of the total issued share capital, you need to register the name of the company or body.

### **Other Pecuniary Interests**

1. Enter details of your employer, or firm in which you are a partner, or company of which you are a remunerated director. This box only relates to you, not your spouse / partner. You do not need to refer to pension rights.
2. Enter details of any contract between you (or a body / company in which you have a beneficial interest) and the PFCC, which has been fully discharged within the last 12 months. Enter a clear description of the contract.

### **Registerable Non-Pecuniary Interests**

#### 1. Bodies

- (a) List all the bodies external to the PFCC to which you have been appointed by the PFCC.

Give the full name of the body (not acronyms or initials).

If in doubt, ask the Monitoring Officer.

- (b) Include any public bodies of which you are a member (e.g. school governor, health authority, government agency, other non-profit organisations in the public sector, local committee).
- (c) Include any charity of which you are a trustee or member.
- (d) Include the name of any political party of which you are a member, any national or local body operating as a pressure group or any trade union or trade association.

2. The requirement covers gifts and hospitality received by you as Police, Fire and Crime Commissioner worth £50 or over. This requirement does not include gifts and hospitality received by you in your private capacity.

You must register the nature of the gift or hospitality, and the person or body giving it. The source of the gift or hospitality affects whether you have a non-pecuniary interest in any business of the PFCC where it relates to, or is likely to affect, the source's interests.

You should register the gift or hospitality as soon as possible after receiving it and in any event within 28 days.



## **Schedule 8**

The Elected Local Policing Bodies (Complaints and  
Misconduct) Regulations 2012  
[SI 2012/62]

[http://www.legislation.gov.uk/uksi/2012/62/pdfs/ukxi\\_20120062\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/62/pdfs/ukxi_20120062_en.pdf)

## **Schedule 9**

Appointment, Suspension and Removal of Chief  
Constables  
[Schedule 8 PRSRA 2012]

[http://www.legislation.gov.uk/ukpga/2011/13/pdfs/ukpga\\_20110013\\_en.pdf](http://www.legislation.gov.uk/ukpga/2011/13/pdfs/ukpga_20110013_en.pdf)

## **Schedule 10**

Police and Crime Panels (Precepts and Chief  
Constable Appointments) Regulations 2012  
[SI 2012/2271]

[http://www.legislation.gov.uk/uksi/2012/2271/pdfs/uksi\\_20122271\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/2271/pdfs/uksi_20122271_en.pdf)

## **Schedule 11**

The Police and Crime Commissioner Elections  
(Declaration of Acceptance of Office) Order 2012  
[SI 2012/2553]

[http://www.legislation.gov.uk/uksi/2012/2553/pdfs/uksi\\_20122553\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/2553/pdfs/uksi_20122553_en.pdf)

# Schedule 12

## Government Security Classifications

### 1 Introduction

1.1 HM Government classifies information assets to:

- a) ensure they are appropriately protected
- b) support public sector business and the effective exploitation of information, and
- c) meet the requirements of relevant legislation and international / bilateral agreements and obligations.

1.2 The classifications apply to all information that government collects, stores, processes, generates or shares to deliver services and conduct business, including information received from or exchanged with external partners.

1.3 It is not a statutory scheme but operates within the framework of domestic law, including the requirements of the Official Secrets Acts (1911 and 1989), the Freedom of Information Act (2000) and data protection legislation.

1.4 The Government Security Classifications came into force in April 2014 and now contain three different levels:



### 2 Approach

2.1 In summary the Commissioner's approach to protecting information is:

- a) There is no need to mark OFFICIAL information under this scheme. This will cover nearly all information created or handled within the Police and Fire and Rescue Services.
- b) The only information that will need to be marked is SECRET and TOP SECRET. This information will be restricted to the small

number of people within the Services who will have clearance to handle it.

- c) OFFICIAL – SENSITIVE can also be used to identify specifically sensitive information (e.g. confidential data, personal information).
- d) The Commissioner has chosen not to adopt any further descriptors, as these may not necessarily be recognised outside of government and public sector organisations.
- e) Irrespective of the markings on the document, responsibility is placed upon the individual to handle the data contained within a document according to its sensitivity.

2.2 Further guidance can be found in '[Government Security Classifications – May 2018](#)' (published by the Cabinet Office), which contains more specific guidance on the definitions of the security classifications and how they should be stored, used, moved and shared.

## **Schedule 13**

### Financial and Procurement Regulations

<http://www.essex.pfcc.police.uk/wp-content/uploads/2018/07/PFCC-Financial-Regulations-v0.9.doc.pdf>

# **Schedule 14**

## **POLICE, FIRE AND CRIME COMMISSIONER FOR ESSEX**

**&**

## **ESSEX POLICE**

### **Anti-Fraud and Anti-Bribery Commitment**



## **1. Purpose**

- 1.1.** This document sets out the commitment of the Police, Fire and Crime Commissioner for Essex (PFCC) and the Chief Constable of Essex Police in relation to ensuring their staff adhere to the highest standards of ethical conduct, having particular focus on the determination to prevent fraud, bribery and other forms of financial malpractice.
- 1.2.** Listed within Appendix 1 are twenty-two policies, procedures and protocols which collectively address matters related to professional standards of behaviour, misconduct and counter-corruption. This document is not intended to provide additional procedural guidance. Rather, it aims to provide a lens over the twenty-two documents listed within Appendix 1 (“the relevant policies”), drawing together the key themes and overarching strategic approach to ensuring the probity of the workforce and preventing, identifying, and investigating corruption.

## **2. Application**

- 2.1.** This document and the relevant policies apply to all police officers and police staff employed by Essex Police and to all those employed by the PFCC, regardless of the position held. For the purposes of this document, this collective group shall be referred to as “employees”. The relevant policies are equally applicable to those instructed or engaged as consultants, vendors and contractors or indeed any other party having a business relationship with either the OPFCC or Essex Police.
- 2.2.** In implementing the relevant policies, managers must ensure that all employees and engaged third parties are treated fairly and within the provisions and spirit of the Equal Opportunities in Employment Protocol<sup>6</sup>. Special attention should be paid to ensuring the policies are understood where there may be barriers to understanding caused by an individual’s circumstances.
- 2.3.** All employees should adhere to the College of Policing Code of Ethics, and the Essex Police Professionalism Strategy<sup>7</sup>, which collectively set out and define the expected standards of behaviour, as well as adhering to any additional codes of conduct related to either a professional body to which they are registered, or which are relevant to their specific post.
- 2.4.** There is a special responsibility on senior management to lead by example. The PFCC, Chief Constable, chief officers and senior management are expected to conduct themselves in ways which are beyond reproach, and which abide by the Seven Principles of Public Life as laid down by the Committee on Standards in Public Life<sup>8</sup>.

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<sup>6</sup>Contained within Appendix 2

<sup>7</sup> As above

<sup>8</sup> As above

- 2.5. It is the responsibility of the PFCC, Chief Constable, chief officers and senior management to be aware of the relevant financial and anti-fraud regulations and to ensure the necessary organisational compliance. The Financial and Procurement Regulations<sup>9</sup> set out the responsibilities of the PFCC, Chief Constable and s.151 Officers in regard to preventing fraud and bribery.
- 2.6. It is expected that non-executive directors and representatives of external organisations appointed to memberships of management committees within the OPFCC and Essex Police at all levels will lead by example in acting with the utmost integrity and ensuring adherence to all relevant regulations, policies, and procedures.
- 2.7. Organisations undertaking work on behalf of the PFCC or Essex Police, or who are concerned in the supply of agency staff, are expected to espouse strong anti-fraud and anti-bribery principles.

### **3. Commitment**

- 3.1. The PFCC and the Chief Constable are committed to the promotion of the highest standards of conduct, including the prevention of fraud, bribery, and other forms of corruption.
- 3.2. In recognising both the responsibility to protect and properly administer public funds, as well as the need to maintain the public's trust and confidence in policing, the PFCC and Chief Constable are jointly committed to a zero-tolerance approach to fraud and other forms of criminal misappropriation.
- 3.3. The PFCC and Chief Constable will not be afraid to tackle difficult or uncomfortable cases of dishonesty and malpractice and – where misconduct is proven - will take a robust approach, seeking the maximum sanction that is appropriate in the circumstances.
- 3.4. Instances of fraud and bribery are costly, both in terms of reputational risk and the associated financial losses. The PFCC and the Chief Constable are therefore equally committed to preventing occurrences of financial malpractice in the first place.
- 3.5. In addition to the moral and ethical case for having strong anti-fraud and anti-bribery policies, the PFCC and Chief Constable recognise the legal requirement imposed on commercially active public bodies to prevent corrupt practices<sup>10</sup>, and the need therefore to have clear, practical and accessible procedures which are effectively implemented and understood by all employees.
- 3.6. The PFCC and Chief Constable commit to ensuring the relevant policies are monitored and reviewed for effectiveness, and that amendments to those

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<sup>9</sup> Contained within Appendix 2

<sup>10</sup> Bribery Act 2010, section 7

policies are implemented where necessary to improve the safeguards afforded by them.

## **4. Anti-Fraud / Anti-Bribery Framework**

**4.1.** The strategic approach to fraud and bribery is based on six key themes:

- Culture
- Prevention
- Deterrence
- Reporting
- Investigation and Detection
- Awareness and Training

### **4.2. Culture**

**4.2.1.** The PFCC and the Chief Constable recognise that a key component in the prevention of fraud and bribery is the establishment of a clear set of standards, well known to and understood by all employees. This includes reinforcing national models, such as the Code of Ethics, as well as establishing local frameworks for ethics, such as the Essex Police Professionalism Strategy. These ethical frameworks ought to be well publicised within the organisation and regularly emphasised e.g., during recruitment, training and through continuing professional development.

**4.2.2.** There is a collective role to play for all employees in the prevention and detection of fraud and bribery. This requires a culture where employees are encouraged to raise concerns regarding fraud and bribery, immaterial of seniority, rank, or status, and where employees trust that the concerns they raise will be treated in confidence.

**4.2.3.** There must equally be clear routes through which members of the public and other third parties are able to report concerns relating to the activities of any employee, and encouragement that such concerns are reported.

### **4.3. Prevention**

**4.3.1.** In addition to the specific responsibilities placed on the Chief Financial Officers in both Essex Police and the OPFCC (s.151 officers) to ensure that there are robust systems of risk management in place to minimise the potential for fraud and financial misconduct, all departments should be challenged to identify related risks applicable to their individual areas, with formal risk registers being used to record risks and mitigations.

**4.3.2.** Internal Audit Teams have a role in testing the various controls and highlighting any weaknesses or opportunities for further risk mitigation.

**4.3.3.** The relevant policies detail the package of measures aimed at preventing instances of fraud and bribery, including vetting procedures, IT security and lawful business monitoring.

**4.3.4.** Understanding that factors outside of the workplace can give rise to fraud and bribery, the role of staff support mechanisms is recognised, along with the need for managers to appropriately refer staff to support services, such as the Essex Police Financial Wellbeing Hub.

#### **4.4. Deterrence**

**4.4.1.** In instances where an employee has been found to have used their position to act fraudulently, dishonestly manage finances or to corruptly accept or offer monies, the PFCC and Chief Constable will seek the strongest appropriate sanctions against the individual(s) concerned. This may include disciplinary action, criminal prosecution, civil proceedings, financial penalties, or a combination. Where the conduct is committed by an employee of a contractor or partner organisation, the PFCC and Chief Constable will request that the organisation takes appropriate disciplinary action against the individual(s) in addition to the instigation of any criminal proceedings as may be required.

**4.4.2.** In all cases, the PFCC and Chief Constable will seek to utilise all methods available to recover any fraudulently obtained assets.

**4.4.3.** Publishing details of criminal sanctions and making available the statistical information relating to disciplinary action taken are further tools to deter others from future misconduct.

#### **4.5. Reporting**

**4.5.1.** All employees and third parties to whom the relevant policies relate have a duty to report any concerns they may have concerning fraud or bribery, and positive action ought to be taken in relation to any suspected corrupt activity.

**4.5.2.** Financial irregularities can take many forms and can occur without dishonest intent or misconduct-related negligence. Employees should however be encouraged to appropriately report information where there is any cause to suspect fraud or financial misconduct has occurred.

**4.5.3.** Given the importance of intelligence and information in identifying corrupt practices, employees should feel able to report concerns, and ought to have confidence that those concerns will be properly investigated and with the welfare of the individual reporting in mind.

**4.5.4.** The Essex Police Professional Standards Department has a number of methods by which employees can report a concern, including via anonymous means. There are routes by which an individual can report concerns without involving their immediate line manager, which caters for scenarios where the line manager is the subject of the concern.

**4.5.5.** There are appropriate protocols in place within the relevant policies in relation to protected disclosures and ‘*whistleblowing*’, applicable equally to contractors. Partner organisations are expected to have their own adequate whistleblowing procedures in place.

#### **4.6. Investigation and Detection**

**4.6.1.** Any allegations received in any way, including by anonymous letters or phone calls, will be taken seriously, and investigated in an appropriate manner.

**4.6.2.** Disciplinary procedures will always be considered where improper behaviour is indicated, and any evidence of criminal behaviour will be appropriately investigated by the Professional Standards Department or the most appropriate investigative agency (e.g., the IOPC). There will be no distinction made in terms of the investigative action taken between cases that generate financial benefits and those that do not.

#### **4.7. Awareness and Training**

**4.7.1.** The PFCC and Chief Constable recognise that the success of the relevant policies will depend on employees being aware of their contents. In addition to bringing the relevant policies to the attention of staff through training and new-starter inputs, this document and all relevant policies are contained within an easily accessible online library.

### **5. Review**

**5.1.** This commitment document will be subject to regular review to ensure that it supports the strategic objectives of the PFCC and Chief Constable.

**5.2.** This commitment document will be formally reviewed every three years.






**Appendix 1****The Relevant Policies**

Number	Title	Type
C3000	Professional Standards	Policy
C3002	Counter Corruption	Procedure
C3001	Dealing with Complaints against the Police	Procedure
C3004	Notifiable Association and Meeting Persons on Bail	Procedure
C3006	Integrity Assurance	Procedure
C3008	Hospitality, Gifts and Gratuities	Procedure
C3009	Disclosure of Previous Convictions & Misconduct Findings	Procedure
C3011	Use of IT Platforms and Social Media Websites	Procedure
C3014	Lawful Business Monitoring	Procedure
C3015	Reporting Wrongdoing	Procedure
G0600	Managing External Media	Policy
G1901	Charging for Police Services	Procedure
W1000	Information Management	Policy
W1001	ICT Acceptable Use	Procedure/SOP
W1004	Incident Reporting and Management	Procedure/SOP
W1006	Government Classification Scheme	Procedure/SOP
W1008	Physical Security	Procedure/SOP
W1014	Information Sharing Agreements	Procedure/SOP
W2011	Transaction Monitoring and Audit	Procedure
W2013	Appropriate Access and Use of Police Information	Procedure
L01200	Police Staff Discipline	Protocol
L11060	Employment and Business Interests	Protocol

## Appendix 2

### Policies and Frameworks Referred to

The following policies and frameworks are referred to within this commitment document and are appended here for reference:

	<b>Policy / Framework</b>	<b>Source</b>	<b>Document</b>
<b>2.2</b>	Equal Opportunities in Policing Protocol	Essex Police	 Protocol - Equal Opportunities in Err
<b>2.3</b> <b>4.2</b>	The Code of Ethics	College of Policing	 Code of Ethics.pdf
<b>2.3</b> <b>4.2</b>	Professionalism Strategy	Essex Police	 Professionalism Strategy 2022-2025.1
<b>2.4</b>	Seven Principals of Public Life	Committee on Standards in Public Life	 Standards Matter.pdf
<b>2.5</b>	Financial and Procurement Regulations	PFCC for Essex	 Financial and Procurement Regula

## Schedule 15

### Policies and Strategies of the Police, Fire and Crime Commissioner

Description	Owner Name	Owner Designation
Abusive, Persistent or Unreasonable Contact, Correspondence and Complaints Policy	P Brent-Isherwood	Chief Executive
Access to Information Policy (including Publication Scheme)	P Brent-Isherwood	Chief Executive
Anti-Fraud & Bribery Commitment	J Perry	Chief Finance Officer
Business Continuity Plan	P Brent-Isherwood	Chief Executive
Business Interests - Staff Declaration Policy	P Brent-Isherwood	Chief Executive
Commissioner Code of Conduct	P Brent-Isherwood	Chief Executive
Communications and Engagement Strategy	D Horsman	Strategic Head of Policy and Public Engagement
Complaints and Expressions of Dissatisfaction Policy	P Brent-Isherwood	Chief Executive
Confidentiality Declaration Policy	P Brent-Isherwood	Chief Executive
Correspondence Standards	D Horsman	Strategic Head of Policy and Public Engagement
Data Asset Register	D Horsman	Strategic Head of Policy and Public Engagement (SIRO)
Data Processing Contract with Essex Police	D Horsman	Strategic Head of Policy and Public Engagement (SIRO)
Data Protection Policy	D Horsman	Strategic Head of Policy and Public Engagement (SIRO)
Decision Making Policy and Procedure	P Brent-Isherwood	Chief Executive
Engagement Charter	D Horsman	Strategic Head of Policy and Public Engagement
Equality, Diversity and Inclusion Policy (incl. Equality Scheme)	P Brent-Isherwood	Chief Executive
Ethics and Integrity Framework	P Brent-Isherwood	Chief Executive
Financial Regulations and Contract Standing Orders	J Perry	Chief Finance Officer



Independent Custody Visiting Scheme	J Perry	Strategic Head of Performance and Resources
Information Sharing Agreement between Essex Police and the Police, Fire and Crime Commissioner for Essex	D Horsman	Strategic Head of Policy and Public Engagement (SIRO)
Information Sharing Protocol between the Police, Fire and Crime Commissioner for Essex and the Essex Police, Fire and Crime Panel	D Horsman	Strategic Head of Policy and Public Engagement (SIRO)
Partnership Domestic Abuse Strategy	J Gardner	Deputy Police, Fire and Crime Commissioner
Police and Crime Plan	R Hirst	Police, Fire and Crime Commissioner
Privacy Notice (General)	D Horsman	Strategic Head of Policy and Public Engagement (SIRO)
Privacy Notice (Employee)	D Horsman	Strategic Head of Policy and Public Engagement (SIRO)
Privacy Notice (Volunteer)	D Horsman	Strategic Head of Policy and Public Engagement (SIRO)
Publication Protocol	D Horsman	Strategic Head of Policy and Public Engagement (SIRO)
Public Engagement Plan	D Horsman	Strategic Head of Policy and Public Engagement
Record Retention and Disposal Policy	D Horsman	Strategic Head of Policy and Public Engagement (SIRO)
Reserves Strategy	J Perry	Chief Finance Officer
Risk Management Handbook	J Perry	Strategic Head of Performance and Resources
Risk Appetite Statement	P Brent-Isherwood	Chief Executive
Schemes of Delegation and Consent	R Hirst	Police, Fire and Crime Commissioner
Social Networking Policy	D Horsman	Strategic Head of Policy and Public Engagement
Staff Code of Conduct	P Brent-Isherwood	Chief Executive
Treasury Management Strategy	J Perry	Chief Finance Officer

Use of Communications	D Horsman	Strategic Head of Policy and Public Engagement
Volunteer Policy	G Myddelton	Strategic Head of Partnership and Delivery
Victims Commissioning Strategy	J Perry	Strategic Head of Performance and Resources

# Schedule 16

## PFCC Decision Report

Please ensure all sections below are completed

<b>Report reference number:</b>
<b>Classification</b> (e.g. Not protectively marked/restricted):
<b>Title of report:</b>
<b>Area of county / stakeholders affected:</b>
<b>Report by:</b> <b>Chief Officer:</b> <b>Date of report:</b> <b>Enquiries to:</b>

### 1. Executive Summary

*(Provide a succinct summary of the contents of the report)*

### 2. Recommendations

*(Set out the decision and recommendations which are to be made as a part of the proposal. Include brief details of what is to happen, when and the resource implications)*

### 3. Background to the Proposal

*(Set out the background, chronological history and relevant contextual information to support the proposal. Highlight whether this proposal is linked to another decision or earlier paper.)*

#### **4. Proposal and Associated Benefits**

*(Set out clearly what is being proposed. Specify the benefits of the proposal including financial or operational benefits)*

#### **5. Options Analysis**

*(Set out any alternative options considered and rejected in favour of the recommendation(s) made. In some instances (e.g. where the recommendation is made to fulfil a statutory requirement), there may be no viable alternative. However, in most cases, there will be at least one alternative option, this being to do nothing / maintain the status quo).*

#### **6. Consultation and Engagement**

*(Include any consultation with staff, representative bodies, other forces, other emergency services and external agencies etc)*

#### **7. Strategic Links**

*(Demonstrate how the issue is relevant to the [Police and Crime Plan](#) and any other relevant strategic plans, such as the Local Business Case for Joint Governance.)*

#### **8. Police operational implications**

*(Outline any operational policing implications and how Essex Police has been engaged or consulted.)*

#### **9. Financial implications**

*(This section should set out the key revenue and capital finance issues arising from the report. Report authors, working with the relevant CFO, will need to demonstrate that the decision is within existing financial and other resources and if not identify the source of any additional resources.)*

#### **10. Legal implications**

*(This section should set out the key legal issues arising from the report and include any legal advice if received)*

#### **11. Staffing implications**

*(This section should set out any staffing implications. It needs to demonstrate that the decision complies with relevant employment legislation and / or policies).*

## **12. Equality, Diversity and Inclusion implications**

*(This section should describe the equality and diversity implications of the proposal and should attach and address any findings from the equality impact assessment if one has been carried out).*

## **13. Risks and Mitigations**

*(This section should describe the key risks relating to the proposal, and what would be undertaken to mitigate those risks. Also specify the potential consequences of not proceeding)*

## **14. Governance Boards**

*(This section should describe the meetings that this proposal has been discussed at prior to the decision being presented to the Commissioner for decision)*

## **15. Links to Future Plans**

*(If this proposal is part of a longer-term plan it should be described here)*

## **16. Background Papers and Appendices**

*(Please list sources of information e.g. documents that are not readily available to the public and that were used in the writing of the report. Please provide an electronic link embedded into the report).*

**Report Approval**

The report will be signed off by the PFCC's Chief Executive and Chief Finance Officer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O. Sign: .....

Print: .....

Date: .....

Chief Finance Officer Sign: .....

Print: .....

Date: .....

**Publication**

Is the report for publication? YES   
NO

If 'NO', please give reasons for non-publication (*Where relevant, cite the security classification of the document(s). State 'None' if applicable*)

.....  
.....  
.....

If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

**Redaction**

If the report is for publication, is redaction required:

1. Of Decision Sheet? YES  NO  2. Of Appendix? YES  NO

If 'YES', please provide details of required redaction:

.....  
.....  
.....

Date redaction carried out: .....

**Chief Finance Officer / Chief Executive Sign Off – for Redactions only**

If redaction is required, the Chief Finance Officer or Chief Executive is to sign off that redaction has been completed.

**Sign:** .....

**Print:** .....

**Chief Executive / Chief Finance Officer**

**Decision and Final Sign Off**

I agree the recommendations to this report:

**Sign:**

**Print:**

**PFCC/Deputy PFCC**

**Date signed:**

I do not agree the recommendations to this report because:

.....  
.....  
.....

**Sign:**

**Print:**

**PFCC/Deputy PFCC**

**Date signed:**