



Part 3B

Scheme of Delegation and Consent

September 2023

Part 3B Scheme of Delegation and Consent

- Part 3A – Schedule of Roles and Responsibilities
- **Part 3B – Scheme of Delegation and Consent**
- Part 3C – Financial Regulations
- Part 3D – Contract Standing Orders
- Part 3E – Meeting Governance

Introduction

3B.1 This Scheme of Delegation and Consent sets out delegation of functions of the Police and Crime Commissioner (Commissioner) and the Chief Constable to enable the Commissioner and the Chief Constable to discharge their statutory functions. It sets out significant functions, which are delegated to the Chief Officers and statutory Officers. It does not affect the power of the Chief Constable and the Commissioner to make additional specific delegations from time to time.

3B.2 This Scheme of Delegation and Consent incorporates the following definitions which are laid out at paragraphs 3.8 and 3.9 within Part 3 (Scheme of Governance) which details the overarching Scheme of Corporate Governance.

“Consent” refers to the provision of approval or agreement, particularly and especially after due and thoughtful consideration. Transactions entered into following “consent” by the Commissioner to the Chief Constable, will be in the Chief Constable’s own name as a separate legal entity, as opposed to the name of the Commissioner.

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

This Scheme of Delegation and Consent includes one consent between the Commissioner for Devon and Cornwall to the Chief Constable of Devon and Cornwall at paragraph 3B.58 of this document in relation to entering into contracts.

3B.3 Any person who exercises delegated authority under this scheme of delegation and consent must bring to the attention of the Commissioner or the Chief Constable as applicable any matter relating to the exercise of that delegated authority where the circumstances would be likely to be regarded by the Commissioner or Chief Constable as novel, contentious or sensitive.

3B.4 Any person who exercises authority under this Scheme of Delegation and Consent must comply with all statutory and regulatory requirements and all guidance. This includes but is not limited to:

- a. PRSRA and subordinate legislation.
- b. Policing Protocol Order 2011.
- c. Home Office Financial Management Code of Practice.
- d. CIPFA Statement on the role of the Chief Finance Officer (CFO) in public service organisations.
- e. Accounts and Audit Regulations.
- f. Data Protection Act 2018.
- g. Freedom of Information Act and subordinate legislation.
- h. Health and safety at work Act 1974 and subordinate legislations and codes.
- i. Equality Act 2010.
- j. Human Rights Act 1998
- k. The Code of Governance of the Commissioner and any other policies and procedures of the Commissioner.

3B.5 Any person who exercises authority under this Scheme of Delegation must have regard to the requirements of the Police and Crime Plan.

3B.6 With the exception of those matters reserved for decision by the Commissioner or the Chief Constable the scheme allows any person to whom a power has been consented or delegated to sub-consent/sub delegate that power further to staff so long as this is not prohibited by statute, regulation or statutory guidance nor is it specifically prohibited by the Commissioner. Any such sub-consent/sub delegation does not relieve the person who has sub-consented or sub-delegated a power from due responsibility for any decision taken by a person they have authorised to act on their behalf.

3B.7 Giving consent/delegation to officers under this scheme does not prevent an officer from referring the matter to the Commissioner or the Chief Constable for a decision if the officer thinks this is appropriate (for example, because of sensitive issues or any matter which may have a consequential financial or reputational implication).

3B.8 Any action taken under delegated authority must where reasonable be recorded by those officers holding the delegation, including recording that

legal, financial and other considerations and consultations have been recorded and considered prior to a decision being taken.

- 3B.9 The Commissioner is responsible for ensuring that the provisions and obligations of this scheme are properly drawn to the attention of all the staff of the OPCC. The Chief Constable is responsible for making sure that the provisions and obligations of this scheme are properly drawn to the attention of all officers and staff under his/her responsibility or employment.
- 3B.10 Notwithstanding any specific requirements in this scheme, the Commissioner shall be consulted in relation to any programmes and projects which may have a significant impact on the community of Devon and Cornwall.
- 3B.11 The person appointed as the Chief Executive (who will also be the Monitoring Officer) and the Treasurer have statutory powers and duties relating to their position, and therefore do not rely on a specific delegation to carry out these powers. Similar considerations apply to the CFO of Devon and Cornwall Police.
- 3B.12 All delegations within this document or elsewhere are subject to the individual exercising the delegation, where required, in consultation with the Treasurer or CFO to ensure that suitable budgetary provision exists to meet the immediate and any future liabilities arising from the decision.

Functions delegated from the Police and Crime Commissioner to the Police and Crime Commissioner's Chief Executive

- 3B.13 In the absence of the Commissioner the Commissioner delegates decisions in relation to the exercise of their statutory functions to their Chief Executive to carry out in their absence.
- 3B.14 The Commissioner delegates the following functions to the Chief Executive:
- a. To prepare and co-ordinate the production of the Police and Crime Plan.
 - b. To produce an annual report.
 - c. Subject to the views of the Chief Constable when appropriate to publish information on behalf of the Commissioner as required by the Elected Local Policing Bodies (Specified Information) Order.
 - d. To provide information to the Police and Crime Panel to enable it to carry out its functions.
 - e. To sign contracts and other legal documents on behalf of the Commissioner and to affix a common seal of the Commissioner in accordance with the Financial Regulations and Contract Standing Orders subject to advice where necessary from the Director of Legal, Reputation and Risk and other specialist advisers. Where the common

seal either of the Commissioner is affixed to any document it shall be in the presence of and attested by the Chief Executive, or such other authorised officer authorised by the Chief Executive, and an entry of every sealing of a document shall be made and consecutively numbered in a book kept for that purpose and shall be authenticated by the person who has attested the seal.

- f. To consider whether in consultation with the Treasurer to provide an indemnity for the Commissioner or their deputy in accordance with the Local Authorities (Indemnities for Members and Officers) Order.
- g. To consider and approve if appropriate, the provision of indemnities and/or insurance for officers.
- h. To make arrangements to institute defend or participate in any legal proceedings in any case where such action is necessary to give effective decisions of the Commissioner or in any case in which the Chief Executive considers that such action is necessary to protect the Commissioner's interests.
- i. To consider with the Commissioner any complaint made against the Chief Constable and where appropriate to make arrangements for appointing an officer to investigate the complaint.
- j. To respond to consultations and proposals affecting the Commissioner after first taking into consideration the views of the Commissioner, the Treasurer and/or the Chief Constable as appropriate.
- k. To obtain legal advice from the Director of Legal, Reputation and Risk or other expert advice and to appoint other legal professionals whenever this is considered to be in the Commissioner's best interest and/or benefit or where a conflict of interests exists so that the Director of Legal, Reputation and Risk is unable to act.
- l. To ensure in consultation with the Chief Constable that appropriate arrangements are made to gather the community's views and the views of victims of crime on the policing of Devon and Cornwall.
- m. Such matters that are referred for decision by the Chief Executive in the Financial Regulations and Contract Standing Orders.
- n. To appoint and suspend and dismiss in consultation with the Commissioner the staff of the OPCC who are not under the direction and control of the Chief Constable.
- o. Having taken the appropriate legal or other expert advice in accordance with the sub paragraph (k) above to settle Employment Tribunal claims and civil claims brought against the Commissioner subject to the memorandum of understanding agreed with the Force in relation to the provision of instructions in legal proceedings.

- p. To appoint and if necessary, terminate the appointment of Independent Custody Visitors in accordance with Section 51 Police Reform Act 2002 and OPCC staff.
- q. To place orders for goods, services and work within budget provision, up to the value at which the European Procurement Directives apply subject to: compliance with Financial Regulations and Contract Standing Orders and a report being submitted to the Commissioner for information.
- r. To make appointments to Police Appeals Tribunal in consultation with the Commissioner.
- s. To deal with routine matters of urgency.
- t. To apply for planning permission on behalf of the Commissioner.
- u. To consult, as appropriate, with the Treasurer and the CFO and the Director of Legal, Reputation and Risk to identify areas where the probity of the Commissioner and the Chief Constable could be better protected.
- v. To prepare the Commissioner's risk management policies.
- w. To maintain the risk register of the Commissioner and if requested to have sight of the risk register of the Chief Constable. This may be a joint risk register or a sole organisation risk register.
- x. To be responsible for the budget for the Office of the Police and Crime Commissioner (OPCC).
- y. To determine any reimbursement of exceptional expenses of the Commissioner in accordance with regulations.
- z. To approve ex gratia payments up to the limit set out in the Financial Regulations.

Functions delegated from the Police and Crime Commissioner to their Police and Crime Commissioner's Treasurer

3B.15 To implement and monitor the Treasury Management Policy Statement.

3B.16 To be responsible for the investment of the Commissioner's funds and the borrowing of funds as necessary in accordance with the Treasury Management Strategy including authority to make investment decisions. The Treasurer may arrange for the CFO to undertake day to day cash management activities or may procure these activities from an appropriate source.

- 3B.17 In extremis, to make the payments where prior approval by the Commissioner is not possible to authorise such payments, irrespective of whether or not provision has been made in the revenue budget but within the bounds of Section 114 of the Local Government and Finance Act 1988. Any decisions taken under this provision must be reported as soon as possible to the Commissioner and the CFO.
- 3B.18 To be responsible for all banking arrangements together with the creation, closure or authorisations of any account.
- 3B.19 To decide having taken appropriate advice in consultation with the Chief Executive any enhancements or applications of discretion within the Local Government Pension Scheme.
- 3B.20 To ensure the joint internal audit function is effective for the use of the Commissioner and to report all matters of concern arising from internal audit activity to the Commissioner and the Independent Audit Committee (IAC) as appropriate.
- 3B.21 To prepare draft financial regulations and rules relating to contracts in consultation with the CFO.
- 3B.22 To approve contract award, contract variations and contract extensions for any specified contracts in the name of the Commissioner up to the limits set out in the Financial Regulations (Part 3C of the Code of Corporate Governance).
- 3B.23 To approve the waiving of standing orders and procurement regulations for any contract in the name of the Commissioner up to the limits set out in the Financial Regulations (Part 3C of Code of Corporate Governance).
- 3B.24 To approve the disposals of assets in the ownership of the Commissioner for the use of the Commissioner and assets in the ownership of the Commissioner for the use of the Chief Constable up to the limits set out in the Financial Regulations (Part 3C of Code of Corporate Governance).
- 3B.25 To approve the write off of income due to the Commissioner up to the limits set out in the Financial Regulations (Part 3C of Code of Corporate Governance).
- 3B.26 To approve individual retirement or redundancy sums for staff of the OPCC up to the limits set out in the Financial Regulations (Part 3C of Code of Corporate Governance).
- 3B.27 To receive notification of all requests for redundancy of the Chief Constables Police Staff in order to ensure that adequate financial provision is in place providing always that the Chief Constable will have the freedom to determine which of his staff are to be made redundant.

Estates Matters

3B.28 Devon and Cornwall estates staff are employed by the Chief Constable but work under the direction of the Devon and Cornwall Commissioner.

3B.29 In Devon and Cornwall the following are delegated to the Treasurer:

- a. To appoint technical consultants as and when required to progress the capital and revenue programmes.
- b. To add or delete firms from the Commissioner's approved list of building contracts and architectural services consultants, in accordance with approved criteria.
- c. To negotiate and appoint a consultant selected from the approved list of architectural services consultants in accordance with the criteria submitted where they consider it to be in the best interests of the Commissioner and where the fee (inclusive of expenses) is within budgetary provision and is estimated to be less than the value at which the European Procurement Directives apply.
- d. To authorise persons to enter and survey land pursuant to Section 15 Local Government (Miscellaneous Provisions) Act 1976 and Section 324(6) Town & Country Planning Act 1990.
- e. To grant licences and fees for radio installations/masts and aerials which conform to approved standards and to report such approvals retrospectively to the Commissioner for information.
- f. To let surplus empty properties, which are not intended for disposal, ensuring they are managed in-house and let at market rents after being advertised on the open market, subject to retrospective reporting to the Commissioner.
- g. To arrange for the service of notices to quit in order to obtain possession of land for a purpose already approved by the Commissioner or to enable a variation to be made in the terms upon which a tenancy of land is held.
- h. To acquire and/or dispose of property at its open market value as certified by a qualified valuer, the capital value of which does not exceed £500,000 and which is included in the strategy outlined for the year in the Police and Crime Plan such transactions to be reported retrospectively to the Commissioner.
- i. To make application to the highways authority for the grant of licences for operators over, in and under streets required for the Commissioner's development.

3B.30 For projects where the final business case has been approved by the primary governance board and following the express approval of the Commissioner's

Chief Executive to apply for planning permission on behalf of the Commissioner.

Functions delegated by the Chief Constable to their Chief Finance Officer

Finance Matters

- 3B.31 To ensure that the financial affairs of the Chief Constable are properly administered.
- 3B.32 To assist the Commissioner in planning the budget for Devon and Cornwall Police.
- 3B.33 To undertake the day to day management of the budget for Devon and Cornwall Police.
- 3B.34 To approve contract award, contract variations and contract extensions for any contract in the name of the Chief Constable up to the limits set out in the Financial Regulations (Part 3C of the Scheme of Corporate Governance).
- 3B.35 To approve the waiving of standing orders and procurement regulations for any contract in the name of the Chief Constable up to the limits set out in the Financial Regulations (Part 3C of the Scheme of Corporate Governance).
- 3B.36 To approve the disposals of assets in the ownership of the Chief Constable for the use of the Chief Constable and assets in the ownership of the Commissioner for the use of the Chief Constable up to the limits set out in the Financial Regulations (Part 3C of the Scheme of Corporate Governance).
- 3B.37 To approve the write off of income due up to the limits set out in the Financial Regulations (Part 3C of the Scheme of Corporate Governance).
- 3B.38 To approve individual retirement or redundancy sums for staff of the Chief Constable up to the limits set out in the Financial Regulations.
- 3B.39 To approve the write off of stocks in the ownership of the Chief Constable up to the limits set out in the Financial Regulations (Part 3C of Scheme of Corporate Governance).
- 3B.40 To approve ex gratia payments to staff of the Chief Constable up to the limits set out in the Financial Regulations (Part 3C of the Scheme of Corporate Governance).
- 3B.41 To be responsible for managing the accounts systems of the Chief Constable.
- 3B.42 Undertake day to day management of the assets held by the Chief Constable.
- 3B.43 To represent the Chief Constable at the Police Pensions Board, in accordance with the Police Pensions Board terms of Reference.

Procurement Matters

- 3B.44 To approve contract award, contract variations and contract extensions for any contract in the name of the Chief Constable up to the limits set out in the Financial Regulations (Part 3C of the Scheme of Corporate Governance).
- 3B.45 To approve the waiving of standing orders and procurement regulations for any contract in the name of the Chief Constable up to the limits set out in the Financial Regulations (Part 3C of Code of Corporate Governance).

Delegations from the Chief Constable to Non-Statutory Posts

Functions delegated by the Chief Constable to the Chief Constable's Director of Legal, Reputation and Risk

- 3B.46 To provide legal advice to the Commissioner and the Chief Constable on their powers and ability to take decisions and actions in specific situations.
- 3B.47 To institute prosecute defend or participate in legal or other proceedings on behalf of the Chief Constable and the Commissioner where such action is necessary to give effect to the decisions and policies of the Chief Constable and the Commissioner or where the Director of Legal, Reputation and Risk advises that such action is necessary to protect the interests of the Chief Constable or the Commissioner.
- 3B.48 To appear on behalf of the Chief Constable and the Commissioner in proceedings at any appropriate court, tribunal or inquiry and to take any action in connection with such proceedings.
- 3B.49 Having taken instructions from the Chief Constable and the Commissioner in accordance with the agreed protocol to settle or compromise any legal proceedings where the Director of Legal, Reputation and Risk advises that such action is necessary to protect the interests of the Chief Constable and/or the Commissioner:
- a. The powers set out above in paragraphs 3B.47 to 3B.49 may be exercised on behalf of the Director of Legal, Reputation and Risk by any qualified lawyer. Working within the Joint Legal Services Department or in circumstances where external lawyers are instructed in accordance with paragraph 3B.14(k) above.

Financial Delegations to the Chief Constable's Lead for Human Resources

- 3B.50 To adjust the police staff establishment both in numbers and gradings within the overall workforce budget approved by the Commissioner.

3B.51 To determine all employee matters relating to police pensions (including widows pensions).

3B.52 To determine the following matters in relation to injury awards:

- a. Decide to refer the process to the Selected Medical Practitioner (SMP).
- b. Decide to retain an officer where the SMP confirms the officer is not permanently disabled and both the management and the officer agree the retention period is appropriate.
- c. Decide the appropriate review period for injury awards.
- d. Decide whether there is a cognisant reason why an injury award should not be reduced to the lowest band upon the pensioner reaching statutory retirement age.

3B.53 To publish and maintain a policy of employer discretions under the Local Government Pensions Scheme and Public Service Pensions Acts (PSPA), including the Police Pension Scheme 2015, in consultation with the CFO and Treasurer as appropriate.

3B.54 Any decisions with regard to the enhancements or applications of discretion listed above will be referred to the Treasurer and the CFO.

3B.55 To accept notices from police officers of an intention to retire from the service.

3B.56 To receive and accept notices from probationer officers who express an intention to retire during their probationary period.

3B.57 To consult the Commissioner's Treasurer and the CFO in order to ensure that adequate financial provision is in place for proposed redundancies of the Chief Constable's staff.

Consent from the Police and Crime Commissioner to the Chief Constable

3B.58 The Commissioner for Devon and Cornwall gives consent to the Chief Constable to enter into contracts and to acquire or dispose of property, other than land, subject to the requirements of Financial Regulations, including Contract Regulations.