

## **MONITORING OFFICER PROTOCOL**

### **Introduction**

Many decisions which affect the police service which are not about operational policing, specifically

- any decision to raise or spend money
- any decision to exercise the powers of the Commissioner to acquire or dispose of assets
- any decision to enter into any sort of agreement for the provision of services
- prior to Stage 2 Transfer of staff under the provisions of Schedule 15 to the Police Reform and Social Responsibility Act 2011, decisions regarding conditions of service of staff

are reached in the name of the North Yorkshire Police and Crime Commissioner ("the Commissioner") whether taken by the Commissioner alone, or with the Executive Board, or by way of a delegate exercising a function under the Scheme of Delegation.

In reaching any such decision, the Commissioner and her delegates are obliged to act within the powers and duties given to the Commissioner by law and within any control framework established by the Commissioner.

### **The Monitoring Officer**

The Chief Executive Officer is, by operation of law, the Commissioner's Monitoring Officer under s5 Local Government and Housing Act 1989.

The principal duty of the Monitoring Officer is to draw the attention of the Commissioner to any proposal, decision or omission which has given rise to or is likely to or would give rise to the Commissioner acting

- unlawfully; and/or
- in a way that contravenes a statutory code of practice; and/or
- in a way which amounts to maladministration within the meaning of the law

The Commissioner's Chief Finance Officer has a parallel statutory duty in respect of any expenditure that could be unlawful, as does the Chief Constable's Chief Finance Officer in respect of financial resources administered by the Chief Constable.

The Commissioner's Chief Executive and Monitoring Officer undertakes to discharge her statutory responsibilities in the public interest with a positive determination and in a manner that enhances the overall reputation of the Commissioner. In doing so she will also use her best endeavours to safeguard the Commissioner and the Commissioner's staff, whilst acting in their official capacities, from facing the possibility of civil or criminal sanctions for breach of the law.

The person nominated to act as Deputy Monitoring Officer under s5(7) Local Government & Housing Act 1989 is the Force Solicitor & Head of Legal Services.

This Protocol provides some general information on how the statutory requirements will operate.

## PROTECT MANAGEMENT

This Protocol is designed to be complementary to the powers and duties of the Offices of the Police and Crime Commissioner and the Chief Constable as set out in the Police Reform and Social Responsibility Act 2011 and the Policing Protocol 2011 and the associated local Memorandum of Understanding agreed between the Commissioner and the Chief Constable.

### **Working arrangements**

The following arrangements and understandings have been agreed between the Monitoring Officer, Commissioner and the Chief Constable.

The Monitoring Officer will:

- (a) be alerted by the Commissioner or the Chief Constable (or by members of their respective staff) to all actual or anticipated issues of concern including in particular, issues relating to legal powers to do something (or not do something) in the name of the Commissioner, ethical standards, probity, or other constitutional issues. In practice, this means that
  - the Monitoring Officer will maintain a close working relationship with the Force Solicitor & Head of Legal Services in accordance with the expectation set out in the Home Office Guidance document for Commissioners [Delivering Through Your Chief Executive & Monitoring Officer](#).
  - the Executive Board arrangements in place in North Yorkshire will ensure that both the Chief Executive Officer and the Force Solicitor & Head of Legal Services
    - receive the papers which will lead to formal decision making by the Commissioner;
    - attend the meetings
    - have direct access to the Commissioner and the Chief Constable
  - the Chief Finance Officers and the Force Solicitor & Head of Legal Services undertake prior formal compliance checking in respect of financial and legal matters pertaining to decisions of significant public interest as set out in Decision Notices
  - the Monitoring Officer and Deputy Monitoring Officer will take steps to enhance awareness of the role of the Monitoring Officer
  - where it is considered necessary to do so, the Chief Executive Officer will obtain independent legal advice for the Commissioner.
- (b) in the exercise of her rights at (a) above, have due regard to the operational independence of the Chief Constable
- (c) in carrying out any investigation, have unqualified access to any non-operational information held by the Commissioner and/or the Chief Constable which might assist in the discharge of her functions; any employee of the Commissioner; any employee of the Chief Constable; with the consent of the Chief Constable, any police officer

## PROTECT MANAGEMENT

- (d) ensure that the Commissioner, the Chief Constable and the Chief Finance Officers are kept up to date with relevant information relating to legality, ethical standards, probity, or other constitutional issues
- (e) meet regularly with the Chief Finance Officers to consider and where appropriate recommend action in connection with corporate governance issues (including legality, ethical standards, probity, or other constitutional issues) that are likely to (or do) arise
- (f) meet at least annually with the Chief Constable and the Chief Finance Officers to review the PCC's Annual Governance Statement in the light of the outcome of meetings referred to at (d) and (e) above
- (g) from time to time as necessary make a report to the PCC on the staff, accommodation and other resources she requires to discharge her statutory functions
- (h) develop effective working liaison and relationship with bodies relevant to the discharge of her statutory functions
- (i) cause to be maintained and kept up to date, relevant registers for the declaration of interests, gifts and hospitality in conjunction as appropriate with the Head of Professional Standards.
- (j) in conjunction with the Force Solicitor & Head of Legal Services
  - i take such steps as may be required by the Police & Crime Panel in connection with complaints against the Police and Crime Commissioner; and
  - ii on behalf of the Commissioner as appropriate authority, take such steps as may be necessary to discharge the Commissioner's responsibilities in connection with complaints or conduct matters concerning the Chief Constable
- (k) put in place arrangements whereby an appropriate person can act as Deputy Monitoring Officer in the absence or illness of the Monitoring Officer or where a conflict of interest prevents the Monitoring Officer acting in that capacity. The Monitoring Officer will keep that person informed of any relevant issues that he or she may be required to deal with in her absence or where the Monitoring Officer has a conflict of interest.

For the avoidance of doubt, to ensure the effective and efficient discharge of the arrangements set out in this Protocol, the Commissioner, the Chief Constable and any Officers and staff of the Commissioner or the Chief Constable shall report any matters which relate or may relate to the duties of the Monitoring Officer to her, or in her absence to the Deputy Monitoring Officer.

The Monitoring Officer and the Deputy Monitoring Officer will also act as a point of reference for Officers and Staff who may consult them on any issues relating to legality, ethical standards, probity, or other constitutional issues.

## PROTECT MANAGEMENT