

Appendix A

MONITORING OFFICER PROTOCOL

Introduction

Many decisions which affect the Police and Fire services which are not about operational matters, 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

are reached in the name of the North Yorkshire Police, Fire 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 a 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 governance and financial control framework established by the Commissioner.

The Monitoring Officer

The Chief Executive Officer is, by operation of law, the Monitoring Officer to the Commissioner as Elected Local Policing Body (PCC) under s5 Local Government and Housing Act 1989. The Chief Executive Officer is also Monitoring Officer to the North Yorkshire Police, Fire and Crime Commissioner Fire and Rescue Authority (PCCFRA).

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 is Simon Dennis, who undertakes to discharge his 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 he will also use his 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 Amanda Wilkinson, the Director of Public Confidence.

PROTECT MANAGEMENT

In order to ensure that the arrangements for carrying out the Monitoring Officer function are resilient, the Monitoring Officer also places reliance upon the Director of Delivery & Assurance and through them, the Fire & Rescue Authority Manager, for ensuring that good governance is maintained within the PFCCFRA.

As a matter of law, the Monitoring Officer role is vested in the individual post holder with a complete discretion as to whether and how to take action under any particular set of circumstances. This Protocol however, provides some general information on how the statutory requirements will operate.

This Protocol is designed to be complementary to the powers and duties of the Offices of the Police, Fire and Crime Commissioner and the Chief Constable as set out in the Police Reform and Social Responsibility Act 2011 and the Policing Protocol issued under the 2011 Act, as well as the Fire and Rescue Services Act 2004 and regulations under the 2004 Act. It should also be read in conjunction with any associated local Memorandum of Understanding agreed between the Commissioner and the Chief Constable.

Working arrangements

The following arrangements and understandings operate between the Monitoring Officer, Commissioner, Chief Fire Officer and the Chief Constable.

The Monitoring Officer will:

- (a) be alerted by the Commissioner, Chief Fire Officer 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 Officer¹ and any successor guidance issued by the Government, the Association of Police and Crime Commissioners and/or the Association of Policing & Crime Chief Executives.
 - 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

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/511330/delivering-through-chief-exec.pdf

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- the Chief Executive and Chief Finance Officer 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 Monitoring Officer will obtain independent legal advice for the Commissioner.
- (b) in the exercise of his activity 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, Chief Fire Officer and/or the Chief Constable which might assist in the discharge of Monitoring Officer functions; any employee of the Commissioner; any employee of the Chief Constable; with the consent of the Chief Constable, any police officer
- (d) ensure that the Commissioner, the Chief Fire Officer, the Chief Constable and the Chief Finance Officer 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 Officer 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 and PFCCFRA 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 Commissioner on the staff, accommodation and other resources he requires to discharge his statutory functions
- (h) develop effective working liaison and relationship with bodies relevant to the discharge of his statutory functions, including
- i the Force Head of Professional Standards; and
 - ii the Force Vetting Officer for the purposes of carrying out the role of Vetting Decision Maker for the Chief Constable under the College of Policing Approved Professional Practice.
- (i) cause to be maintained and kept up to date, relevant registers for the declaration of interests, gifts and hospitality for the Office of the Police, Fire and Crime Commissioner.
- (j) in conjunction with the Force Solicitor & Head of Legal Services
- i take such steps as may be required by the Police, Fire & Crime Panel in connection with complaints against the 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

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concerning the Chief Constable – further specific details are set out in the Code of Corporate Governance.

- (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 they may be required to deal with in his 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, Chief Fire Officer and the Chief Constable and any Officers and staff of the Commissioner, Chief Fire Officer or the Chief Constable shall report any matters which relate or may relate to the duties of the Monitoring Officer to him, or in his 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.

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