



Police & Crime
Commissioner
for Cheshire



Cheshire
Constabulary

CHAPTER 2

RULES RELATING TO BUSINESS AND PROCEEDINGS OF THE COMMISSIONER AND THE CHIEF CONSTABLE IN CONNECTION WITH RELEVANT MEETINGS OF THE JOINT GOVERNANCE STRUCTURE

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CHAPTER 2 – RULES RELATING TO THE BUSINESS AND PROCEEDINGS OF THE COMMISSIONER AND THE CHIEF CONSTABLE

CONTENTS

Description

Meetings of the Commissioner and the Chief Constable	3
Dates of Meetings	444
The Commissioner's and Chief Constable's Scheme of Delegation, Financial Regulations and Rules Relating to Contracts	444
Agenda for Meetings	444
Presiding at Meetings	555
Matters Reserved for Decision	555
The Forward Plan	7
Rights to Attend Meetings	666
Private and Public Meetings	666
Access to Notes of Meetings and Reports after a Meeting	666
Exclusion of Press and Public Access to Reports	777
Exclusion of Press and Public from Meetings	777
General Disturbance	9
Conflicts of Interest	888
Recording of Proceedings	888
Police and Crime Panel Access to Documents	888
Record of Attendance	999
Interpretation of Rules	999

CHAPTER 2

RULES RELATING TO THE BUSINESS & PROCEEDINGS OF THE COMMISSIONER AND CHIEF CONSTABLE

1. MEETINGS TO WHICH THESE RULES SHALL APPLY

- 1.1. The Commissioner and Chief Constable have established a joint governance structure. Part of this structure includes a Management Board and Scrutiny Board. These Rules shall apply to such meetings and the Commissioner and Chief Constable shall comply (and ensure compliance) with these Rules in relation to the conduct of such meetings. They shall also apply to the Commissioner's Quasi-Judicial meetings. The ordinary meetings of the Commissioner and Chief Constable are Management Board Meetings, Scrutiny Board Meetings and also in the case of the Commissioner Quasi-judicial meetings.
- 1.2. Management Board meetings will enable the Commissioner and Chief Constable to make strategic and significant decisions relating to the discharge of their role and functions in each others presence.
- 1.3. Scrutiny Board meetings will be held to enable the Commissioner to hold the Chief Constable to account for the provision of an efficient and effective police service in Cheshire.
- 1.4. Quasi-judicial meetings will be held to consider any human resource or complaints matters, including where the Commissioner is the final arbiter or appellate body. Relevant professionals will be in attendance to provide advice to the Commissioner as required.
- 1.5. In addition to ordinary meetings, there may be matters of such importance that the Commissioner wishes to establish a special task and finish group. In such cases, it will be a matter for the Commissioner to determine the terms of reference, membership and who should be asked to attend. In establishing a task and finish group due regard must be had to the Policing Protocol and the operational independence of the Chief Constable.
- 1.6. An annual meeting of the Management Board shall be held between April and June, on a date to be agreed by the Commissioner in consultation with the Chief Constable. The annual meeting will provide the Commissioner (in conjunction with the Chief Constable) with a structured opportunity to review the joint governance structure including any delegations or consents, terms of reference, and appointments to external bodies.
- 1.7. The joint governance structure will also have opportunities where the Commissioner and the Chief Constable will meet from time to time to receive (or provide) briefing or to discuss policy issues, policy formulation, or development. Such meetings do not constitute part of the formal decision making structure and so are not governed by these Rules.

2. DATES OF MEETINGS

2.1. The dates and times of meetings will be set or varied by the Commissioner in consultation with the Chief Constable and published on the website.

2.2. In addition to the dates of meetings agreed by the Commissioner, an extraordinary Management Board meeting may be required by:-

- (a) The Commissioner; or
- (b) The Chief Executive (for Cheshire this is the Chief of Staff) or Chief Finance Officer (for Cheshire this is the Head of Finance, Operations and Governance) of the OPCC
- (c) The Chief Constable or Chief Constable's Chief Finance Officer¹ (the Assistant Chief Officer) or the Chief Constable's Monitoring Officer in performance of their statutory duties.

3. THE COMMISSIONER'S SCHEME OF DELEGATION/CONSENT, FINANCIAL REGULATIONS AND RULES RELATING TO CONTRACTS

3.1. The Commissioner's Scheme of Consent/Delegation, Financial Regulations and Rules relating to Contracts and the Chief Constable's Scheme of Financial Delegation and associated documents will be subject to adoption, and may only be amended, at a Management Board Meeting.

3.2 The Commissioner has exercised his powers to delegate a number of matters to certain named officers, and has given his consent to the Chief Constable taking such actions as are set out in the approved Scheme of Delegation/ Consent. The Commissioner may withdraw such delegations/ consent at any time at his absolute discretion.

4. AGENDA FOR MEETINGS

4.1. The Commissioner may put on the agenda of any meeting any matter which he wishes relating to the discharge of his functions, following discussion with the Chief Executive.

4.2. The Chief Executive, Chief Finance Officer of the OPCC and the Chief Constable, Deputy Chief Constable, Assistant Chief Officer and the Force Solicitor may include an item for consideration on the agenda of any meeting.

4.3. The Commissioner (or Chief Constable where such decision falls within his powers to consider and take) may decide to accept an urgent item on to the agenda where in their opinion, the item should be considered as a matter of urgency because of special circumstances which shall be specified in the notes of the meeting.

¹ Note the Local Government and Finance Act 1988 as amended by the 2011 Act requires the Chief Constable's Chief Finance Officer to send a copy of any statutory report to the Police and Crime Commissioner

4.4. As soon as practicable before a meeting, the Office of the Police and Crime Commissioner will make copies of the agenda available via the Commissioner's website, with the exception of any reports which contain confidential or exempt information.

5. PRESIDING AT MEETINGS

5.1. The Joint governance arrangements envisage that the Commissioner and Chief Constable shall work in partnership, and adopt a collaborative approach whilst considering and deciding matters within their legal competence in each others presence. These rules of procedure do, however, require certain powers or discretions to be exercised by the person presiding. On this basis the assumption shall be that the Commissioner shall act in this role (recognising that in such role he shall not in any way fetter, or otherwise interfere with the powers and duties of the Chief Constable as a corporation sole), unless the Commissioner and Chief Constable agree that it would be conducive due to the nature of the business to be transacted for the Chief Constable to preside.

5.2. Where the Commissioner is absent from a meeting the Chief Executive will act as the person presiding, but shall not take any decision on matters reserved to the Commissioner in accordance with Rule 6 and shall act and discharge such role in accordance with paragraph 5.1.

6. MATTERS RESERVED FOR DECISION

6.1. In accordance with the Police Reform and Social Responsibility Act 2011, the following matters shall be reserved for decision by the Commissioner:-

- (a) Issuing a Police and Crime Plan;
- (b) Determining police and crime objectives;
- (c) Preparing an annual report;
- (d) Appointing and suspending the Chief Constable or calling upon the Chief Constable to retire or resign; and
- (e) Calculating a budget requirement.

7. DECISIONS OF SIGNIFICANT PUBLIC INTEREST

7.1. Decisions of significant public interest will be considered at Management Board Meetings. Such decisions will include:-

- (a) those decisions which are reserved to the Commissioner as referred to at rule 6 above.
- (b) a decision which is financially significant in terms of spending or savings and not provided for in the agreed budget or medium term financial strategy.
- (c) the approval or amendment of strategies and policies which will have a significant impact upon the people of Cheshire.

8. MANAGEMENT DECISIONS

8.1. Management decisions are those decisions within existing budget, strategy or policy and will be made by the Commissioner outside of the formal Management Board structure as appropriate. A log will be maintained within the Office of the Police and Crime Commissioner of such decisions.

9. RIGHTS TO ATTEND MEETINGS

9.1. Members of the public may attend all meetings of the Management Board and Scrutiny Board, subject only to the exceptions in these Rules.

9.2. The Commissioner's Chief Executive and Chief Finance Officer are entitled to attend any meeting including those where the press and public are excluded and will be given reasonable notice that a meeting is to take place. The Constabulary's Assistant Chief Officer and the Force Solicitor shall also be entitled to attend these meetings and will be given reasonable notice that a meeting is to take place.

9.3. Sole authority for decision making lies with the Commissioner and the Chief Constable (or their Deputies in their absence as permitted by law). Both corporations sole reserve the right to take decisions separately when relevant to fulfilling their separate legal roles. The Commissioner will comply with these Rules (adjusted as relevant and necessary) when meeting as such.

10. PRIVATE AND PUBLIC MEETINGS

10.1. Management Board Meetings and Scrutiny Board Meetings may be in the form of public meetings or private meetings. A public meeting will be open to the public subject to Rule 14.1 and 15.2.

10.2. This rule does not apply to meetings, whose sole purpose is for officers to brief the Commissioner. For the purpose of this rule such a briefing is not a 'meeting'. Nor does this rule extend to early decisions where the Commissioner may decide to narrow the options under consideration provided that a final decision relating to a matter of significant public interest [see the Specified Information Order] is not decided at that meeting [see also Rule 1.7].

10.3. Decisions may only be taken at a Management Board Meeting provided that both the Chief Executive and Chief Finance Officer (or their nominated deputies) are present, and where the Chief Constable/ Deputy Chief Constable is in attendance, the Constabulary's Assistant Chief Officer (or their nominated deputies) are present and/ or have provided their advice in writing on the business to be transacted and there is an officer present with responsibility for recording and publishing the decision in accordance with Rule 12.

11. ACCESS TO NOTES OF MEETINGS AND REPORTS AFTER A MEETING

11.1. As soon as practicable after a meeting, the Office of the Police and Crime Commissioner will make copies of the following available via the Commissioner's website:

- (a) the notes of the meeting, including a brief summary of any proceedings of the meeting not open to the public without disclosing any exempt or confidential information considered;
- (b) a copy of signed decision reports relating to items when the meeting was open to the public.
- (c) a record of any conflict of interest /disclosable pecuniary interest declared by the Commissioner or Chief Constable / Deputy Chief Constable declared in accordance with their obligations under relevant ethical requirements/codes.

12. EXCLUSION OF PRESS AND PUBLIC ACCESS TO REPORTS

- 12.1. If the Chief Executive recommends, the Commissioner may exclude access by the public to reports which in the Chief Executive's opinion relate to items during which, in accordance with Rule 13, the meeting is likely not to be open to the public.
- 12.2. Such reports will be marked 'Not for publication' together with a description of the category of confidential/exempt information likely to be disclosed.

13. EXCLUSION OF PRESS AND PUBLIC FROM MEETINGS

- 13.1. The press and public will be excluded from meetings only if it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential or exempt information would be disclosed.
- 13.2. 'Confidential information' means information given to the Commissioner or Chief Constable by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.
- 13.3. 'Exempt information' means information falling within the statutory categories (subject to any condition) described in Schedule 1 to these Rules.
- 13.4. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the European Convention on Human Rights and the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

14. GENERAL DISTURBANCE

- 14.1. In the event of general disturbance which in the opinion of the person presiding makes the orderly dispatch of business impossible, the person presiding may, without question, adjourn the meeting for such period as they consider necessary.
- 14.2. If a member of the public interrupts the meeting the person presiding shall warn them. If that person continues the interruption the person presiding shall order

their removal from the meeting. In case of general disturbance in any part of the meeting room open to the public the person presiding shall order that part of the room to be cleared.

15. CONFLICTS OF INTEREST

15.1. Where the Commissioner has a conflict of interest/disclosable pecuniary interest this shall be dealt with as set out in the Commissioner's Code of Conduct.

15.2. Where the Chief Constable/Deputy Chief Constable has a conflict of interest they shall comply with their obligations under the Police (Conduct) Regulations 2012 to make any necessary declaration and take any other action, and also comply with any Code of Ethics relevant and in force in relation to their role.

16. RECORDING OF PROCEEDINGS

16.1. No video, film, sound recording, photographic or like equipment shall be used during any meeting without the consent of the person presiding at the meeting.

17. POLICE AND CRIME PANEL ACCESS TO DOCUMENTS

17.1. The Police and Crime Panel will be able to access information made available by the Commissioner in accordance with paragraph 10.1

17.2. The Police and Crime Panel will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information as defined in rule 14;
- (c) any document which discloses advice of a member of the Commissioner's staff;
- (d) any information of the kind specified in s13 (2) of the Police Reform and Social Responsibility Act 2011 namely any information which:
 - (i) would, in the view of the chief officer of police, be against the interests of national security.
 - (ii) might, in the view of the chief officer of police, jeopardise the safety of any person,
 - (iii) might, in the view of the chief officer of police, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice, or
 - (iv) is prohibited by or under any enactment

18. RECORD OF ATTENDANCE

18.1. Every individual attending a Management Board or Scrutiny Board meeting, with the exception of members of the public, is required to sign the attendance register.

19. INTERPRETATION OF RULES

19.1. All meetings will be conducted in accordance with these rules, but where any point of procedure is not covered, the matter shall be determined by the person presiding at the meeting, following advice from the Commissioner's statutory officers. Such rulings shall not be challenged at any meeting.

GUIDANCE: EXEMPT INFORMATION

The Freedom of Information Act 2000 and, specifically in relation to individuals, the Data Protection Act 1998 provides a number of categories of information (listed below) which may be considered exempt from the requirement to provide the public or individuals with papers relating to meetings. (Legal advice should be obtained if an individual seeks access to information within reports etc and is seeking to rely upon the Data Protection Act)

PUBLIC INTEREST TEST

A number of the categories require that the information can only be treated as exempt information if, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The term 'public interest' is not defined but, put simply, the test is whether it "serves the interests of the public better to maintain the exemption or to disclose the information".

There is a presumption running through the Freedom of Information (FOI) legislation; that openness is in itself to be regarded as something which is in the public interest. The Information Commissioner has identified a number of public interest factors which encourage the disclosure of information, including the following:

- furthering the understanding of and participation in the public debate of current issues;
- promoting accountability and transparency by public authorities for decisions taken by them;
- promoting accountability and transparency in the spending of public money; and
- other factors which may need to be taken into account when considering whether it is in the public interest for an exemption to be maintained.

Report authors must first identify if information falls within an exempt category and then apply the Public Interest Test. The Commissioner's Senior Governance and Performance Officer must be notified so as to ensure that an appropriate exemption category has been identified and applied and to advise as necessary.

The Public Interest Test must also be applied at the relevant meetings when considering whether or not to move into closed session. The decision making body must be satisfied that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information and any resolution in connection with the matter should include words to reflect this.

FREEDOM OF INFORMATION ACT 2000: EXEMPTIONS

Section 21: Information accessible to the applicant by other means (absolute)

For example, information which the authority is required by law to communicate, or publishes in the context of its approved publication scheme. It must be reasonably accessible to the applicant.

Section 22: Information intended for future publication (public interest test)

This applies where publication was planned at the time the request was made.

Section 23: Information supplied by or relating to bodies dealing with security matters (absolute)

This only applies to information supplied by or relating to one of the security bodies listed in the section.

Section 24: National security (public interest test)

Information that is not covered by section 23 above, but exemption is needed to safeguard national security.

Section 26: Defence (public interest test)

Information likely to prejudice national defence or the armed forces.

Section 27: International relations (public interest test)

Information likely to prejudice the UK's international relations or interests.

Section 28: Relations within the United Kingdom (public interest test)

Information likely to prejudice relations between the UK administrations: the UK Government, the National Assembly for Wales, the Scottish Administration and the executive committee of the Northern Ireland Assembly.

Section 29: The economy (public interest test)

Information likely to prejudice the economic interests of the UK or part of the UK, or the financial interests of the Government or any of the national administrations in the UK.

Section 30: Investigations and proceedings conducted by public authorities (public interest test)

Information held for the purpose of criminal investigations and proceedings and information obtained from confidential sources relating to these or civil proceedings arising out of them.

Section 31: Law enforcement (public interest test)

Information not covered by section 30 above, and which is likely to prejudice a wider range of investigations and conduct, including prevention of crime; assessment and collection of any tax, regulatory enforcement; health and safety; any civil proceedings.

Section 32: Court records (absolute)

Information that is only held as part of the documentation for a court or tribunal case, or a statutory inquiry.

Section 33: Audit (public interest test)

Applies to information held by public authorities which have functions relating to audit or examining the economy, efficiency and effectiveness of the use of resources of other public authorities; information is exempt if its disclosure is likely to prejudice those functions.

Section 34: Parliamentary privilege (absolute)

Section 35: Formulation of government policy (public interest test)

Information held by a Government Department or the National Assembly for Wales, relating to the formulation of Government policy.

Section 36: Prejudice to effective conduct of public affairs (public interest test)

Information that if disclosed would adversely affect the delivery of effective central government and other public services.

Section 37: Communications with the Royal Family and honours (public interest test)

Applies to two categories of information relating to: communications with Her Majesty, other members of the Royal Family or the Royal Household and information relating to the conferring by the Crown of any honour or dignity.

Section 38: Health and safety (public interest test)

Information whose disclosure would be likely to endanger the physical or mental health or the safety of any individual.

Section 39: Environmental information

Exempts environmental information whose disclosure must be considered under the Environmental Information Regulations 2004: a specific regime to enable individuals to access environmental information, which includes its own exceptions from that right of access.

Section 40: Personal information (public interest test)

Personal data within the meaning of the Data Protection Act 1998. Section 40 applies to: requests for the personal data of the applicant him or herself or requests for the personal data of someone else (a third party).

Section 41: Information provided in confidence (absolute)

Provides an exemption to the right of access if the requested information was provided to the public authority in confidence.

Section 42: Legal professional privilege (public interest test)

Information that would be subject to legal professional privilege if litigation were in progress. Legal professional privilege covers confidential communications between lawyers and clients and certain other information that is created for the purposes of litigation. Section 42 ensures that the confidential relationship between lawyer and client is protected.

Section 43: Commercial interests (public interest test)

Information where disclosure would be likely to prejudice the commercial interests of any person. It also includes a specific exemption for trade secrets.

Section 44: Prohibitions on disclosure (absolute)

Applies to three distinct categories of information:

- if there is an existing statutory bar to the disclosure of information by a public authority then that information will be exempt
- if disclosure would be incompatible with a European Community obligation then the information will be exempt
- if disclosure would constitute or be punishable as a contempt of court at common law (for example because it would breach a court order) then it will be exempt.