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CHAPTER 3

SCHEME OF CONSENT/DELEGATION

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OFFICE OF THE POLICE AND CRIME COMMISSIONER FOR CHESHIRE

SCHEME OF CONSENT/DELEGATION

1. INTRODUCTION

- 1.1. The Financial Management Code of Practice (FMCP), published by the Home Office in January 2012, lays out the purpose and content of a Scheme of Consent/Delegation which should be prepared by the Police and Crime Commissioner (the Commissioner) at the start of each financial year.
- 1.2. This Scheme:
 - (i) sets out how the Chief Constable will assist in the exercise of the Commissioner's functions
 - (ii) sets out how the Chief Constable will exercise his power to carry out his own functions
 - (iii) sets out how the Commissioner will delegate to his own staff
 - (iv) sets out how the Commissioner expects the policing budget to be applied
 - (v) sets out how the Commissioner will hold the Chief Constable to account for day to day budget management
- 1.3. This Scheme also details the key roles of the Commissioner, and those functions which he delegates to the Chief Executive (in Cheshire this is the Commissioner's Chief of Staff) and the Commissioner's Chief Finance Officer (in Cheshire this is the Commissioner's Head of Finance, Operations and Governance), and those he consents to the Chief Constable.
- 1.4. This Scheme is supported by and should be read alongside the Financial Regulations and Code of Corporate Governance. The Code of Corporate Governance details the key roles of the Commissioner and Chief Constable. It also describes the arrangements and controls to ensure good governance in the two corporations sole. The key roles of the Chief Executive and the Chief Finance Officers are set out in the Financial Regulations.
- 1.5. This Scheme provides a framework to ensure that business is carried out efficiently and that decisions are not unnecessarily delayed.
- 1.6. Powers are given to the Chief Constable by legislation, orders, rules, regulations and national conditions of employment.
- 1.7. This Scheme does not identify all the statutory duties which are contained in specific laws and regulations, nor does it attempt to list all matters which form part of everyday management responsibilities.

2. KEY ROLES OF THE POLICE AND CRIME COMMISSIONER

- 2.1. The Police Reform and Social Responsibility Act 2011 (“the Act”) provided for a directly elected Police and Crime Commissioner for Cheshire who is supported by the Office of the Police and Crime Commissioner.
- 2.2. The key legal powers and duties of the Commissioner are set out in the Policing Protocol Order 2011 and the Police Reform and Social Responsibility Act 2011.
- 2.3. The Commissioner has overall responsibility for the financial administration of his Office and the Constabulary, including any borrowing decisions. This Scheme and the financial regulations outline in further detail the respective financial roles and responsibilities of the Commissioner and the Chief Constable.
- 2.4. The Commissioner will receive all income including Government grant and precept (council tax income), and other sources of income, related to policing and crime reduction. All funding for the Constabulary must come via the Commissioner. How this money is allocated is for the Commissioner to decide, after consultation with the Chief Constable, or in accordance with any specific grant terms.
- 2.5. The Police and Crime Commissioner and the Chief Constable must have regard to the Strategic Policing Requirement when exercising and planning their policing functions in respect of Cheshire Police responsibilities.
- 2.6. The Cheshire Police and Crime Panel will scrutinise the Commissioner’s exercise of his statutory functions. The Panel consists of 13 individuals, 10 representing the four Cheshire Borough Councils and 3 independent persons. The Panel has a check and balance role solely in relation to the Commissioner, not the Chief Constable.

3. GENERAL PRINCIPLES OF CONSENT

- 3.1. The powers given to the Officers referred to in this Scheme should be exercised in line with the Commissioner’s delegation or consent, (as the case may be) the law, statutory and regulatory requirements, relevant professional guidance and advice, financial regulations and rules relating to contracts, and also approved policies, procedures, plans, strategies and budgets.
- 3.2. The Scheme provides sufficient conferment of consent/delegation to Officers to ensure that decisions are not unnecessarily delayed, whilst ensuring that individuals are properly protected from the risks associated with being the individual held to account.
- 3.3. Subject to paragraph 3.4, the Commissioner may, at any time, require that a specific matter is referred to him for a decision and not dealt with under powers of consent/delegation.
- 3.4. The Commissioner must not restrict the operational independence of the Constabulary and the Chief Constable who leads it.

- 3.5. The Commissioner may limit the powers which are consented/delegated and/or remove consent/delegation at any time.
- 3.6. With the exception of those matters listed in Section 4, 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. Where a matter is consented to the Chief Constable, the Chief Constable may arrange for any of their officers or staff to undertake the consented function on their behalf via a Constabulary Scheme of Delegation. Whilst the content of any such Scheme is a matter for the Chief Constable, the Commissioner expects to be consulted on the content of any such Scheme and any changes to it.
- 3.7. Giving consent/delegation to officers under this Scheme does not prevent an officer from referring the matter to the Commissioner for a decision if the officer thinks this is appropriate (for example, because of sensitive issues or any matter which may have a significant financial or reputational implication).
- 3.8. The Commissioner is responsible for ensuring that the provisions and obligations of this Scheme are properly drawn to the attention of the Chief Executive and all the Commissioner's staff. 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 responsibility or employment.
- 3.9. Notwithstanding any specific requirements in this Scheme, the Commissioner shall be consulted in relation to any projects/areas of work which may have a significant impact on the community of Cheshire. The Commissioner shall be consulted at both outline business case and full business case stages including any evaluation of such business case. In addition, the Commissioner shall approve the terms of reference and governance arrangements for projects which propose collaborative working with third parties.
- 3.10. The person appointed as the Chief Executive (who will also be the Monitoring Officer) and the Commissioner's Chief Finance Officer ("section 151 officer") have statutory powers and duties relating to their positions, and therefore do not rely on a specific delegation to carry out these powers. Similar considerations apply to the Chief Finance Officer and Monitoring Officer of the Constabulary.
- 3.11. When carrying out any functions, the Commissioner and his staff must have regard to:
 - (i) The views of people in Cheshire, obtained through consultation
 - (ii) Any report or recommendation made by the Police and Crime Panel on the annual report for the previous year

- (iii) The Police and Crime Plan and any guidance issued by the Secretary of State.

(This list is a summary and is not exhaustive.)

3.12. The Police Reform and Social Responsibility Act 2011 prevents the Commissioner from delegating those duties listed below:

- (i) Issuing the Police and Crime Plan
- (ii) Determining objectives in the Police and Crime Plan
- (iii) Attendance at the Police and Crime Panel when specifically requested
- (iv) Preparing the annual report to the Police and Crime Panel
- (v) The appointment or suspension of the Chief Constable or calling upon the Chief Constable to retire or resign
- (vi) Calculating a budget requirement

3.13. The Commissioner's governance framework, including this Scheme, will be reviewed annually or at any other time the Commissioner decides is appropriate.

4. MATTERS WHICH ARE NOT CONSENTED TO THE CHIEF CONSTABLE AND REMAIN FOR DECISION BY THE COMMISSIONER

In addition to those responsibilities which the Commissioner is prevented from consenting to others under the Police Reform and Social Responsibility Act 2011, there are a number of matters which the Commissioner does not give consent. These matters, which will require the Commissioner's specific approval, are set out below:

4.1. Finance

- 4.1.1. The Medium Term Financial Strategy, covering the financial scenario for the following four years and annual draft revenue and capital budgets, with associated savings plans to meet the scenario.
- 4.1.2. The reserves strategy, covering all reserves, and also contingencies within the budget. The use of all reserves will need to be approved by the Commissioner.
- 4.1.3. In accordance with his statutory functions, the determination of the annual budget, capital programme, precept and council tax, which forms the first year of the Strategy. As well as approving the total annual revenue budget, the Commissioner will also annually approve, in consultation with the Chief Constable, the manner in which the total budget is to be divided (and sub divided) for reporting and financial management purposes (referred to in this document as budget heads). Within any such budget heads, any budgets

relating to pay shall be ring fenced (i.e. prevented from being used for any other purpose without specific approval).

- 4.1.4. The establishment levels for police officers, police staff, PCSOs and Special Constables (i.e. total number of FTEs in each category) at the start and end of each year. Within the year variations will be permitted to the extent that actual expenditure differs from the assumptions in the budget but any variations and their financial impact will need to be reported to the Commissioner on a quarterly basis.
- 4.1.5. The Commissioner's Chief Financial Officer must be notified of any proposed additional expenditure of £50,000 or more within one budget head to be funded by virement from another. The Commissioner's Chief Finance Officer has the power to approve proposals or refer the matter to the Commissioner for a decision.
- 4.1.6. Revenue or capital expenditure proposals which have not been agreed as part of the annual budget process (and are therefore unfunded), and/or which would involve future year commitments, (excepting contracts or other matters which the Commissioner has consented to.)
- 4.1.7. The approval of additional capital expenditure of £50,000 or above on individual capital schemes, unless it can be funded by virement and does not constitute a change in policy.
- 4.1.8. The use of additional revenue and/or capital savings/underspends/income against the budget.
- 4.1.9. The annual carry forward of underspends/overspends.
- 4.1.10. The write off of pension and salary overpayments where any individual debt is over £500.
- 4.1.11. The write off of individual non pay debts over £5,000.
- 4.1.12. The writing off of any debt which is likely to involve reputational issues. The Chief Constable should draw any potential cases of this nature to the attention of the Commissioner's Chief Finance Officer who will decide whether the write off should be referred to the Commissioner for approval.
- 4.1.13. Any proposal involving the provision of sponsorship, gifts and loans to the Constabulary by a third party which may have reputational implications or involve costs/future years commitments above £5,000 for the Commissioner or Constabulary.
- 4.1.14. The opening/closing of any bank accounts, except covert accounts which should be maintained in accordance with the financial regulations.
- 4.1.15. Approval of all loans and investments.

4.2. Human Resources

- 4.2.1. Any proposals at the start or end of the financial year to increase or decrease the police officer, police staff, PCSO or special constable establishment numbers previously approved by the Commissioner
- 4.2.2. Notwithstanding the functions consented to the Chief Constable at section 5 of this Scheme, the financial implications of staffing changes (which include appointments or cessation of employment) not previously approved in setting the annual budget or specifically agreed by the Commissioner, relating to individuals or groups which will (or are likely to) result in a budget cost or saving. This is with the exception of minor temporary changes which support the Commissioner's objectives and can be contained within the existing budget, which may be approved by the Chief Executive (see paragraph 7.5.5).

4.3. Strategies and Policies

- 4.3.1. Those organisational strategies and policies which underpin the delivery of the Police and Crime Plan and the Medium Term Financial Strategy, and any changes to those policies. Such strategies and policies will include:
 - (i) People Strategy (to include early retirement, redundancy, ill health and Health and Safety policies)
 - (ii) Estates Strategy
 - (iii) Procurement Strategy
 - (iv) IT Strategy
 - (v) Fleet Strategy
 - (vi) Asset Management Strategy
 - (vii) Fees and Charges Handbook

The Commissioner shall agree, if requested, a list of those policies/strategies which will not require his specific consent.

4.4. Procurement

- 4.4.1. The procurement of and the entering into of contracts for goods and /or services with an aggregate value over the lifetime of the contract above £50,000.
- 4.4.2. The approval of extensions to contracts which fall outside the agreed terms of the contract.

4.5. Property

- 4.5.1. The acquisition or disposal of land or property or acquisition or grant of any interest or right in, of property owned by the Commissioner including the lease or rental of such land or property (except for covert operational reasons or short term rentals below one month e.g. room hire for training purposes).

4.6. **Other**

- 4.6.1 The giving of indemnities or guarantees to third parties
- 4.6.2 The entering into of collaboration agreements under the Police Act 1996 (as amended) and any other significant joint ventures.

5. STATUTORY FUNCTIONS AND FUNCTIONS CONSENTED TO THE CHIEF CONSTABLE

- 5.1. The Chief Constable is accountable for the exercise of police powers, and to the Police and Crime Commissioner for the delivery of efficient and effective policing, and the management of resources and expenditure by the Constabulary.
- 5.2. The extent of the legal capacity and powers of the Chief Constable in this context are set out in Schedule 2 of the Police Reform & Social Responsibility Act 2011, in particular paragraph 7 states:-

"7(1) A Chief Constable may do anything which is calculated to facilitate, or is conducive or incidental to the exercise of the functions of a Chief Constable

(2) That includes -

- (a) entering into contracts and other agreements (whether legally binding or not) but only with the consent of the relevant Police & Crime Commissioner
- (b) acquiring and disposing of property, apart from land, but only with the consent of the relevant Police & Crime Commissioner.

(4) Sub paragraph (2)(a) does not require the Chief Constable to obtain the consent of the relevant Police & Crime Commissioner 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 the person's membership of that civilian staff (including the terms and conditions of the person's membership)
- (5) This paragraph is subject to the other provisions of this Act and to any other enactment about the powers of Chief Constables"

- 5.3. In summary therefore, the Commissioner has the powers to determine how much funding should be allocated to the Constabulary having regard to his statutory responsibilities for the totality of policing in Cheshire; the Police and Crime Plan and the Strategic Policing Requirement) and may set parameters on how (and on what) it may be spent, and therefore which areas may require his prior approval before any expenditure is undertaken. In addition, the Chief Constable (as a corporation sole) may only have the legal capacity to enter into certain arrangements, as defined in Paragraph 7 of Schedule 2 of the 2011 Act, with the consent of the Commissioner. For example, the Chief Constable may not borrow money without the prior consent of the Commissioner.
- 5.4. The Chief Constable is responsible to the public and accountable to the Commissioner for:

- (i) Supporting the Commissioner in the delivery of the Police and Crime Plan and to have regard to the contents of the Plan in exercising his functions.
- (ii) Providing the Commissioner with access to information, officers and staff as required in accordance with the agreed Service Level Agreement/Memorandum of Understanding on the provision of professional, transactional and other support services..
- (iii) Having regard to the Strategic Policing Requirement when exercising and planning his policing functions.
- (iv) Notifying and briefing the Commissioner of any matter or investigation on which he may need to provide public assurance either alone or with the Commissioner. All Commissioners will be designated as Crown Servants under the Official Secrets Act 1989 making them subject to the same provisions in relation to sensitive material as Ministers of State.
- (v) Being the operational voice of policing in Cheshire, and regularly explain to the public the operational actions of officers and staff under their command.
- (vi) remaining politically independent.
- (vii) managing all complaints against the force, its officers and staff, ensuring they are allocated for investigation at the appropriate level, except in relation to the Chief Constable, and to ensure that the Commissioner is kept informed to enable him/her to discharge their statutory obligations in relation to complaints in a regular meaningful and timely fashion. Serious complaints and conduct matters must be referred to the Independent Police Complaints Commission.

5.5. The Chief Constable is responsible for the following functions under this Scheme, some of which by virtue of a consent given by the Commissioner. In so far as he is empowered to do so, the Commissioner consents to the Chief Constable taking such action and carrying out such functions in relation to the resources allocated to him as is necessary for the Chief Constable to exercise his policing functions, but excluding those matters specifically non consented and set out in section 4 of this Scheme.

5.6. In relation to functions in section 4 which may not be exercised without the consent of the Commissioner, where there is any doubt in relation to interpretation, the issue shall be referred to the Commissioner for a decision.

5.7. Finance

5.7.1. Under the Police Reform and Social Responsibility Act 2011, the Chief Constable must appoint a qualified accountant as Chief Finance Officer to be

responsible for the proper administration of the Constabulary's financial affairs. In Cheshire, this person is the Assistant Chief Officer.

- 5.7.2. The Assistant Chief Officer must ensure that the financial affairs of the Constabulary are properly administered having regard to the need to uphold their probity, legality, and appropriate standards.
- 5.7.3. The Commissioner consents to the Chief Constable taking all steps reasonably necessary to manage and administer the budget and other resources allocated to him by the Commissioner including the following:
 - 5.7.3.1. Undertake the day to day management of the budget provided to the Constabulary in accordance with financial regulations.
 - 5.7.3.2. Prepare business cases for revenue and capital expenditure.
 - 5.7.3.3. Commit expenditure within the approved budget to meet the strategies agreed with the Commissioner and the objectives reflected in the Police and Crime Plan.
 - 5.7.3.4. In accordance with financial regulations, approve, transfer or vire budgets between budget headings, on a permanent or temporary basis for all individual amounts below £50,000, providing there are no future year commitments and the Commissioner is notified through the budget monitoring process.
 - 5.7.3.5. Approve the submission of bids for grant funding below £100,000.
 - 5.7.3.6. Approve all agreements for the provision of services to other organisations with a value below £50,000. This does not apply to the provision of mutual aid by the Chief Constable nor advice or assistance to international organisations under the Police Act 1996, which are operational matters and exempt but is subject to consultation with the Commissioner.
 - 5.7.3.7. Approve the provision of policing services to external bodies where the contract is less than £100,000 and budget to provide such services exists.
 - 5.7.3.8. Undertake the day to day management of the insurance function with the proviso that the Commissioner's Chief Finance Officer is consulted on all insurance arrangements to ensure they are adequate and represent best value for money.
 - 5.7.3.9. Approve provision of police advice and assistance to international agencies where budget exists.
 - 5.7.3.10. Manage covert accounts in accordance with financial regulations.
 - 5.7.3.11. The write off of pension and salary overpayments where any individual debt is below £500, up to a cumulative annual limit of £5,000.

5.7.3.12. The write off of individual non pay debts up to a value of £5,000.

5.8. Procurement

5.8.1. Undertake the day to day management of the procurement function in accordance with financial regulations and the Procurement Strategy agreed by the Commissioner.

5.8.2. The procurement of and the entering into of contracts in his own right for goods and /or services with an aggregate value over the lifetime of the contract below £50,000.

5.8.3. The approval of extensions to contracts which fall within the agreed terms of the contract.

5.9. Property

5.9.1. Manage and maintain the Commissioner's estate in accordance with approved strategies and within the agreed budget.

5.9.2. Maintain an asset register of all property and major assets owned by the Commissioner or leased by him.

5.10. Legal

5.10.1. Approve the settlement of any claim for damages less than £50,000 or other compensation (plus costs incurred or predicted to date) unless the claim:

- (i) Involves a high profile party including ACPO rank police officers and/or senior police officers and police staff that are members or participants of the Chief Constable's Strategic Board or
- (ii) There is a perceived public interest or reputational risk in the case, or
- (iii) It is in the nature of a test case
- (iv) requires a settlement agreement under the Employment Rights Act 1996 or other relevant provision as it relates to the rights of the parties as employer/ employee - in such cases the provisions to seek approval in paragraph 7.3.7 will apply.

In such circumstances, the matter will be referred to the Commissioner's Chief Executive for a decision. The Chief Constable must submit an annual report on the settlement of any claims to the Commissioner under this paragraph.

5.10.2. Institute, defend or participate in legal actions to protect the interests of Cheshire Constabulary.

- 5.10.3. Provide advice, institute and defend legal proceedings on behalf of the Commissioner when requested by the Commissioner to do so.
- 5.10.4. Entering into legal agreements with third parties for the purposes of data sharing, non-disclosure/confidentiality, acquisition or assignment of intellectual property rights, inter-agency memoranda & protocols etc., except where such agreement includes the procurement of goods or services and/or revenue or capital expenditure.

5.11. **Human Resources**

- 5.11.1. To manage, as far as is allowed by Government directives and any policies agreed by the Commissioner, the numbers, locations, ranks and grading of police staff and police officers within the overall workforce budget, establishment and the Police and Crime Plan approved by the Commissioner (except for posts at chief-officer level which the Commissioner should be specifically consulted on).
- 5.11.2. To appoint all Constabulary officers and staff, after consultation with the Commissioner on posts above the rank of Chief Superintendent and police staff equivalent.
- 5.11.3. To authorise, in line with police staff conditions of service and agreed policies, the suspension or dismissal of any staff not appointed by the Commissioner.
- 5.11.4. Subject to the requirement for the financial implications to be approved by the Commissioner (as set out at section 4 of this Scheme) and in line with the agreed policies, to approve the retirements or redundancies, in the interests of the efficiency of the service, of staff where sums are within budget and to report to the Commissioner on this issue each year. In respect of redundancies, the Chief Executive shall be consulted prior to the redundancies being confirmed.
- 5.11.5. Notwithstanding the requirement at paragraph 4.2.2, the Commissioner must be consulted on all appointments, early or ill health retirement, redundancy, suspensions, dismissals relating to the Force Leadership Team.
- 5.11.6. To approve the appointment or secondment of police officers for central services or overseas duty, subject to relevant statistics being presented to the Commissioner on an annual basis.
- 5.11.7. In line with the terms of any approval given by the Home Secretary, to grant leave with pay, and the payment of appropriate fees and charges, for police officers chosen to take degree courses at university.
- 5.11.8. With the agreement of the Commissioner to bring national agreements on salaries, wages and conditions into effect. Any issues which are potentially sensitive or have major financial implications will be reported to the Commissioner at the earliest possible opportunity.

- 5.11.9. To inform the Commissioner in advance of any proposed negotiations with recognised trade unions and staff associations on any matters that can be decided locally. All agreements reached must be reported back to the Commissioner.
- 5.11.10. To grant essential or casual car-user allowances or car leasing schemes for Constabulary Officers and Staff.
- 5.11.11. To make awards under any staff suggestion scheme.
- 5.11.12. To approve the retirement of police officers and police staff on the grounds of ill health, and the payment of ordinary and ill-health pensions and other payments in accordance with agreed policies, following advice from the Force Medical Examiner or a medical practitioner. However, the Commissioner must be consulted on the retirement of the Deputy Chief Constable, Assistant Chief Constables and the Assistant Chief Officer. All ill-health retirements must be reported to the Commissioner on a quarterly basis.

5.12. **Other**

- 5.12.1. To exercise the powers and duties of the Police (Property) Regulations 1997 by:
- (i) authorising, where appropriate, requests to donate unclaimed lost property to charity; and
 - (ii) approve the keeping of unclaimed lost property if it can be put to good use for police purposes
- 5.12.2. To discharge his statutory duties for health and safety matters.

6. FUNCTIONS DELEGATED TO THE CHIEF EXECUTIVE (CHIEF OF STAFF) OF THE COMMISSIONER

- 6.1. The Chief Executive is the head of paid service, and is also the Monitoring Officer for the Commissioner. The powers listed below, are those delegated to the Chief Executive; for him to exercise on the Commissioner's behalf in accordance with this Scheme.
- 6.2. **General**
- 6.2.1 Discharge the function of the Commissioner to monitor the effective management by the Chief Constable of all complaints made against Police Officers and staff employed by the Chief Constable and to make any recommendations to the Commissioner in relation to their discretionary powers to issue a direction to the Chief Constable under s15 of the Police Reform Act 2002.
- 6.2.2 Scrutinise the Constabulary's implementation of the People Strategy and delivery of the Corporate Training Plan, including arrangements for workforce planning, management of sickness absence and the implementation of recommendations arising from national reports.

- 6.2.3 Support the Commissioner in holding the Chief Constable to account for the exercise of his duty to have regard to the Strategic Policing Requirement by monitoring performance and ensuring that the Constabulary is responding to the threats identified within the Strategic Policing Requirement.
- 6.2.4 Support the development of responses to White Papers and consultation documents for the Commissioner's consideration.
- 6.2.5 To act as 'head of paid service' under section 4 of the Local Government and Housing Act 1989 and to take all action necessary to ensure the effective and efficient management of the Office of the Police and Crime Commissioner and its staff. (This includes a duty to prepare a report to the Commissioner, where the Head of Paid Service considers it appropriate, on the manner in which the Commissioner's functions are co-ordinated, the number and grade of staff required and the organisation, appointment and proper management of those staff.)
- 6.2.6 In the absence of the Commissioner (defined as leave or illness or other exceptional circumstances) where contact with him is not possible and a decision of an urgent nature is required to protect the interests of the organisation, the Commissioner delegates decisions in relation to the exercise of his statutory functions to the Chief Executive (in consultation with the Commissioner's section 151 Officer where practicable) with the exception of those powers which cannot be delegated (see paragraph 3.12). Upon the Commissioner's return, any decisions made by the Chief Executive under this paragraph will be reported for information to the next Management Board meeting.
- 6.2.7 To prepare the Police and Crime Plan for submission to and determination by, the Commissioner.
- 6.2.8 To prepare an annual report for submission to and determination by, the Commissioner.
- 6.2.9 To provide information to the Police and Crime Panel, as reasonably required to enable the Panel to carry out its functions.

6.3. **Legal**

- 6.3.1. Act as 'Monitoring Officer' under section 5(1) of the Local Government and Housing Act 1989. The Head of Scrutiny and Planning will act as Deputy Monitoring Officer.
- 6.3.2. Act as "Proper Officer" to deal with various administrative matters involving the Commissioner, including without limitation any issues arising in respect of the Data Protection Act 1998 and the Freedom of Information Act 2000.
- 6.3.3. Sign or seal all contracts and seal all other legal documents on behalf of the Commissioner.
- 6.3.4. Commission and approve the Commissioner's Equality Impact Assessments.

- 6.3.5. Approve the financial settlement of claims or requests for compensation because:-
- (i) The amount to be paid is more than £50,000; or
 - (ii) They involve a high profile claimant including ACPO rank police officers and/or senior police officers and police staff that are members or participants on the Chief Constable's Strategic Board; or
 - (iii) There is a real or perceived public interest in the case; or
 - (iv) It is in the nature of a test case.
- 6.3.6. Approve all requests for financial assistance in relation to legal proceedings or inquests.
- 6.3.7. Approve the financial implications of settlement agreements prior to finalisation to ensure they accord with best value principles and will not damage the reputation of the Commissioner. Where the Commissioner has approved a Settlement Agreement Policy, the requirement to seek approval shall only apply to proposed agreements which do not comply with it.
- 6.3.8. Following consultation with the Commissioner, institute, defend or participate in any legal proceedings on behalf of the Commissioner in any case where such action is necessary to give effect to the decisions of the Commissioner or in any case where the Force Solicitor, considers that such action is necessary to protect the Commissioner's interests.

6.4. **Financial**

- 6.4.1. The financial management responsibilities of the Chief Executive are set out in the Financial Regulations.

6.5. **Human Resources**

- 6.5.1. To appoint and dismiss and to agree the terms of any other termination of employment, in consultation with the Commissioner, for staff who are employed by the Commissioner, except the role of Chief Executive which remains the responsibility of the Commissioner.
- 6.5.2. To make recommendations to the Commissioner with regard to terms and conditions of service for staff who are employed by the Commissioner, except for the role of Chief Executive which remains the responsibility of the Commissioner.
- 6.5.3. To make all discretionary decisions under the Local Government Superannuation Scheme in respect of those staff who are employed by the

Commissioner, except for the role of Chief Executive which remains the responsibility of the Commissioner.

- 6.5.4. To undertake the management of staffing resources for all staff employed by the Commissioner in line with agreed policies and procedures.
- 6.5.5. To approve the financial implications of minor staffing changes (minor is defined as temporary in year changes relating to staff below senior management grades) not previously approved in setting the annual budget or specifically agreed by the Commissioner, subject to the changes being in line with the Commissioner's agreed objectives and contained within the existing budget. Approvals made under this delegation will be reported on a quarterly basis to the Commissioner's Scrutiny Board.
- 6.5.6. To exercise any of the Commissioner's functions which fall to be discharged in relation to pensions and conduct matters for officers and staff of the Constabulary and the Commissioner's Office (except relating to himself as Chief Executive) including in accordance with the Police Regulations 2003, the Police (Conduct) Regulations 2004, 2008 and 2012; and the Police Pensions Regulations 1987 (and any statutory modification and re-enactment thereof).
- 6.5.7. To make arrangement for appeals against decisions of the Senior Administrator of the Local Government Pension Scheme, in line with the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996.
- 6.5.8. To make arrangements for dealing with complaints against the Chief Constable including:
 - (i) to determine whether a complaint should be referred to the IPCC in accordance with the definition of mandatory and voluntary referrals set out in the appropriate guidance;
 - (ii) to determine whether or not to record a complaint as conduct or a direction and control matter – if it is decided not to record a complaint the support of the Commissioner must be obtained;
 - (iii) to appoint an investigating officer to investigate a recordable complaint in accordance with the appropriate regulations;
 - (iv) to determine whether a recorded complaint is suitable for local resolution and if so to appoint a person to locally resolve the complaint;
 - (v) to determine, in accordance with the appropriate regulations, whether IPCC agreement should be sought for a dispensation of the complaint;
 - (vi) where an investigation has been undertaken, to ensure a suitable report is presented to the Commissioner to enable a decision to be made on the action to be taken.

6.5.9. In relation to a grievance against the Chief Constable, to take the appropriate action to investigate the grievance, applying as appropriate the grievance procedure, and reporting the outcome to the Commissioner to enable appropriate action to be taken to resolve the grievance.

6.5.10. To discharge functions and responsibilities in respect of Police Appeal Tribunals, on behalf of the Commissioner including the appointment of members of the Tribunals.

6.5.11. To appoint or reappoint Independent Custody Visitors or other volunteers managed by the Office of the Police and Crime Commissioner and terminate appointments if necessary.

6.5.12. To approve the attendance of Custody Visitors at national or regional conferences on Custody Visiting.

6.6. **Other**

6.6.1. To respond to consultations on proposals affecting the Commissioner, if necessary, after first taking the views of the Commissioner, the Commissioner's Chief Finance Officer or the Chief Constable, as appropriate.

6.6.2. To arrange for the provision of professional services (including obtaining independent legal advice in cases of potential conflict of interest following discussions with the Force Solicitor) as required by the Commissioner.

6.6.3. To make sure appropriate arrangements are made to gather the views of the community and victims of crime on the policing of Cheshire and the prevention of crime.

6.6.4. To determine claims submitted under the Riot (Damages) Act 1886, in consultation with the Commissioner's Chief Finance Officer and the Chief Constable as appropriate. To ensure the Commissioner is briefed on the number and value of claims and the Chief Finance Officer provides appropriate reports to the Commissioner on the outcome of all claims and the implications on the Commissioner's budget.

6.6.5. In relation to the Commissioner's land and property, to serve notices to quit and notices to terminate its use or occupation, and to institute court proceedings to recover arrears of rent and other payments or to recover possession from occupiers and users.

6.6.6. To discharge the Commissioner's statutory duty for health and safety matters.

6.6.7. To keep the common seal of the Commissioner. The seal shall be attested by the Chief Executive or any other person authorised in writing by him. An entry of every sealing should be made and consecutively numbered in a book, and kept by the person who attested the seal.

6.6.8. In accordance with the sub delegation powers in this Scheme to authorise in writing a named officer or officers to exercise any or all of the powers authorised to be exercised by the Chief Executive except for this power.

7. FUNCTIONS DELEGATED TO THE CHIEF FINANCE OFFICER OF THE COMMISSIONER (HEAD OF FINANCE, OPERATIONS AND GOVERNANCE)

7.1. The Chief Finance Officer to the Commissioner has statutory responsibility to manage the Commissioner's financial affairs as set out in Section 151 of the Local Government Act 1972, Section 112 and Section 114 of the Local Government Finance Act 1988 and other statutory and regulatory enactments including the Accounts and Audit Regulations.

7.2. The Chief Finance Officer must ensure that the financial affairs of the Commissioner and the Constabulary are properly administered having regard to the need to uphold their probity, legality and appropriate standards.

7.3. The detailed financial management responsibilities of the Commissioner's Chief Finance Officer are set out in the Financial Regulations. However, the key areas which are delegated to the Commissioner's Chief Finance Officer are summarised below:

7.3.1. To seek assurances that there are appropriate arrangements in place within Cheshire Constabulary for its financial management.

7.3.2. To be responsible for all banking arrangements, together with creating, closing or authorising all bank accounts of the Commissioner or Constabulary (except covert accounts).

7.3.3. To approve the arrangements for securing and preparing the Group accounts and the Commissioner's accounts and seek assurances that there are appropriate arrangements in place for the preparation of the Constabulary's accounts.

7.3.4. To authorise payments, without having to obtain approval and regardless of whether or not provision has been made in the revenue budget in relation to:

(i) payments required by law

(ii) payments ordered by the court

(iii) payments due under any agreement entered into by the Commissioner.

7.3.5. To prepare draft financial regulations and rules relating to contracts in consultation with the Assistant Chief Officer for approval by the Commissioner.

7.3.6. To approve the arrangements for the treasury management function, including the day to day management, the production of the treasury management strategy, borrowing and investment and supporting policies and procedures.

7.3.7. To ensure an adequate and effective internal audit service is provided.

8. REPORTING REQUIREMENTS

8.1. Notwithstanding that the Commissioner has granted the consents/delegations outlined in the Scheme, Officers will be obliged to report on matters to the Commissioner as required within this Scheme, the financial regulations, and as otherwise directed by the Commissioner in a format and frequency specified by the Commissioner.