

Approved By:Executive Director..... Chief Officer	Classification of Paper:Not Protectively Marked.....
Report to PCC	Report reference number PCC / 0025 / 14
Date of Decision: 31 March 2014	All staff affected
Title of report: Constitution, Scheme of Delegation and Scheme of Consent	
Report by: Treasurer	
Enquiries to: Executive Director and Treasurer	

1. Purpose of report

- 1.1 A staff transfer scheme has approved by the Home Secretary. The scheme undertaken by the PCC for Essex transfers all staff to the Chief Constable with the exception of those staff employed in the Office of the Police and Crime Commissioner, some 13 staff, on 1st April 2014.
- 1.2 Alongside the staff transfer scheme there is a need to revise the Scheme of Governance in order to ensure that the respective responsibilities of the two corporations' sole of PCC and Chief Constable are clear and that business is carried out efficiently. At the heart of the Scheme of Governance are the Constitution, Scheme of Delegation and Scheme of Consent. Other parts of the Scheme of Governance are also being revised and will shortly be presented for approval.

2. Recommendations

- 2.1. The PCC is recommended to approve the appended Constitution, Scheme of Delegation and Scheme of Consent.

3. Benefits of Proposal

- 3.1 The revised Constitution incorporates amendments to the governance structure for the work of the Strategic Policing Board and its committees in support of the decisions taken by the PCC.
- 3.2 The Scheme of Delegation and Scheme of Consent clarifies the responsibilities of the PCC and Chief Constable with regard to the ownership and use of assets and property.
- 3.3 All assets and property will be owned by the PCC and arrangements made to ensure that the Chief Constable has full use of the assets and property required to exercise his functions.

4. Background and proposal

- 4.1 The PCC's role includes:
 - i) A statutory duty and electoral mandate to ensure an efficient and effective public service and to hold the Chief Constable to account on behalf of the public;
 - ii) Setting and updating the four year police and crime plan
 - iii) Setting the force budget and council tax contribution to policing
- 4.2 The above role and responsibilities are reflected in the Scheme of Delegation and Scheme of Consent whereby the PCC retains ownership of all assets and property.
- 4.3 The creation of two corporations sole is unique in the policing services and there are legal and accounting matters that are subject to differing interpretations. In particular, with regard to agency and principal law and the accounting interpretation of 'substance over form'. These aspects will influence to recognition of income and expenditure, assets, liabilities and reserves in the respective accounts of the PCC and Chief Constable.
- 4.4 The Scheme of Delegation and Scheme of Consent are prepared on the basis that all assets and property will remain on the balance sheet of the PCC and that the employment of officers and staff will transfer to the Chief Constable's balance sheet.

5. Police and Crime Plan

- 5.1 The PCC will hold the Chief Constable to account for operational policing and support services for delivery of the Police and Crime Plan. This will include the Chief Constable's use of assets and property.

6. Police Operational Implications

6.1 The Chief Constable remains responsible for operational policing and support services and will have a licence from the PCC to use assets and property in order to fulfil this function.

7. Financial Implications

7.1 All assets and property will be retained on the PCC's balance sheet with the cost of officers and staff being on the Chief Constable's balance sheet.

8. Legal Implications

8.1 The Constitution and both the Scheme of Delegation and Scheme of Consent are compliant with the Police Reform and Social Responsibility Act 2011.

9. Staffing and other resource implications

9.1 There may be staffing and other resource implications arising from new systems and procedures required to implement the Scheme of Delegation and Scheme of Consent. Any changes required will be subject to an appropriate business case and closely monitored.

10. Equality and Diversity implications


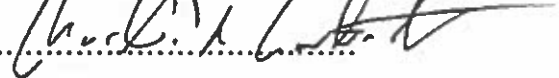
10.1 None.

11. Background papers

11.1 The current Scheme of Governance is publically available on the PCC website.

Report Approval

The report will be signed off by the Executive Director, Treasurer and the PCC Solicitor where legal implications arise.

Executive Director/M.O	
Treasurer	
PCC Legal Advisor	(As necessary)

[NOT PROTECTIVELY MARKED]

Decision

I agree the recommendations to this report



PCC/Deputy PCC

I do not agree the recommendations to this report because

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PCC/Deputy PCC

Publication

Reasons for non-publication (state 'None' if applicable)

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Signed/Print name

Report for publication

YES

NO

If the report is not for publication, the Executive Director will decide if and how the public can be informed of the decision.

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Police and Crime Commissioner **for Essex**

Scheme of Delegation **And** **Scheme of Consent**

31 March 2014

[NOT PROTECTIVELY MARKED]

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PART 1

Scheme of Delegation

OFFICE OF THE POLICE AND CRIME COMMISSIONER (PCC)

Introduction

The scheme of delegation details the key roles of the Police and Crime Commissioner (the "PCC"), and those functions which he designates to the Executive Director, Treasurer, and the Deputy PCC.

This scheme of delegation forms part of the Police and Crime Commissioner governance framework to ensure that business is carried out efficiently without unnecessarily delaying decisions.

The powers set out in this Scheme of Delegation should be exercised in accordance with the PCC's consent, the law, standing orders and financial regulations, and also policies, procedures, plans, strategies and budgets.

This scheme of delegation does not identify all the statutory duties which are contained in specific legislation and regulation.

Words denoting the singular shall include the plural and vice versa, words denoting the masculine gender shall include the feminine gender and vice versa.

Public Accountability

The public accountability for the delivery and performance of the police service is placed into the hands of the PCC on behalf of their electorate. The PCC draws on their mandate to set and shape the strategic objectives of their force area in consultation with the Chief Constable. They are accountable to the electorate; the Chief Constable is accountable to their PCC.

1. Key role of the PCC

- 1.1 The PCC within each force area has a statutory duty and electoral mandate to hold the police to account on behalf of the public.
- 1.2 The PCC is the recipient of all funding, including the government grant and precept and other sources of income, related to policing and crime reduction and all funding for a force must come via the PCC. How this money is allocated is a matter for the PCC in consultation with the Chief Constable, or in accordance with any grant terms. The Chief Constable will provide professional advice and recommendations.

1.3 The PCC has the legal power and duty to:

- (a) set the strategic direction and objectives of the force through the Police and Crime Plan (the "Plan"), which must have regard to the Strategic Policing Requirement set by the Home Secretary;**
- (b) scrutinise, support and challenge the overall performance of the force including against the priorities agreed within the Plan;**
- (c) hold the Chief Constable to account for the performance of the force's officers and staff;**
- (d) decide the budget, allocating assets and funds to the Chief Constable; and set a precept for the force area;**
- (e) appoint the Chief Constable;**
- (f) suspend and remove the Chief Constable;**
- (g) maintain an efficient and effective police force for the police area**
- (h) enter into collaboration agreements with other PCCs, other policing bodies and partners that improve the efficiency or effectiveness of policing for one or more policing bodies or police forces in consultation with the Chief Constable (where it relates to the functions of the police force, then it must be with the agreement of the Chief Constable).**
- (i) provide the local link between the police and communities, (working towards translating the legitimate desires and aspirations of the public into action;)**
- (j) hold the Chief Constable to account for the exercise of the functions of the office of Chief Constable and the functions of the persons under the direction and control of the Chief Constable;**
- (k) publish information specified by the Secretary of State and information that the PCC considers necessary to enable the people who live in the force area to assess the performance of the PCC and Chief Constable;**
- (l) prepare and issue an annual report on the PCC's delivery against the objectives within the Plan;**
- (m) monitor all complaints made against officers and staff, whilst having responsibility for complaints against the Chief Constable**

- 1.4 The PCC must not fetter the operational independence of the police force and the Chief Constable who leads it.
- 1.5 In order to enable the PCC to exercise the functions of their office effectively, they will need access to information and officers and staff within their force area. Such access to any information must not be unreasonably withheld or obstructed by the Chief Constable and/or fetter the Chief Constable's discretion and control of the force.
- 1.6 A PCC has wider responsibilities than those relating solely to the police force, namely:
 - (a) A specific responsibility for the delivery of community safety and crime reduction;
 - (b) The ability to bring together Community Safety Partnerships at the force level;
 - (c) The ability to make crime and disorder reduction grants within their force area;
 - (d) The duty to ensure that all collaboration agreements with their Local Policing Bodies and forces deliver better value for money or enhance the effectiveness of policing capabilities and resilience
 - (e) A wider responsibility for the enhancement of the delivery of criminal justice in their area.
- 1.7 The PCC is a corporation sole which owns all the assets, land and buildings upon it including all rights and liabilities which derive from that ownership whether or not in the possession and use of the Chief Constable as a corporation sole.
- 1.8 The PCC will be held to account by the Police and Crime Panel (the "Panel") who will scrutinise his decisions.
- 1.9 The PCC may appoint a deputy to exercise his functions, with the exception of those functions which cannot be delegated detailed within paragraph 2.10.
2. **General Principles of Delegation**
 - 2.1 The PCC may ask that a specific matter is referred to him for a decision and not dealt with under this scheme of delegation.
 - 2.2 This Scheme does not attempt to list all matters which form part of the everyday management responsibilities.

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- 2.3 Any person to whom powers have been delegated under this Scheme may refer the matter back to the PCC for a decision if that person thinks this is appropriate, for example, due to sensitive issues or decisions with significant financial implications.
- 2.4 When a person considering a matter that impacts upon another person's area of responsibility, they should consult that person before proceeding with any decision.
- 2.5 All decisions made under delegations from the PCC must be recorded and available for inspection.
- 2.6 The Executive Director of the PCC's office is responsible for ensuring that PCC staff are aware of the provisions and obligations of this Scheme of Delegation.
- 2.7 The Executive Director and the Treasurer of the PCC have statutory powers and duties relating to their positions and therefore do not rely on delegations in order for these powers and duties to be executed.
- 2.8 This Scheme of Delegation provides the Executive Director, Treasurer or Deputy PCC with the authority to undertake the duties of the PCC. Whilst undertaking these duties the officer must comply with all other relevant statutory and regulatory requirements as well as:
- a) The Police and Social Responsibility Act 2011 and other relevant legislation issued under this Act.
 - b) Financial Regulations
 - c) Home Office Financial Management Code of Practice for the police service
 - d) CIPFA Statement on the role of the Chief Finance Officer of the PCC
 - e) The Contract Regulations
 - f) The PCC and Essex Police employment policies and procedures
 - g) The PCC's Constitution
 - h) The Data Protection Act 1998 and the Freedom of Information Act 2000
 - i) Health and Safety at Work legislation and codes.
 - j) Equality Act 2010 and related equality and diversity regulation and guidance
- 2.9 The PCC and his staff must have regard to the following (this list is indicative only and should not be considered to be exhaustive):
- a) The views of the communities in Essex
 - b) Any report or recommendation made by the Police and Crime Panel on the annual report for the previous financial year.
 - c) The Police and Crime Plan and any guidance issued by the Secretary of State.

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- 2.10 The following functions may not be delegated by the PCC:
- a) Issuing the Police and Crime Plan
 - b) Determining the police and crime objectives of the Police and Crime Plan
 - c) Calculation of budget requirements
 - d) Appointing the Chief Constable, suspending the Chief Constable or calling upon the Chief Constable to retire or resign
 - e) Attendance at the Police and Crime Panel in compliance with a requirement by the Panel to do so
 - f) Preparing the Annual Report to a Police and Crime Panel
- 2.11 This scheme is a record of the formal consents that are in effect at the time its publication. The PCC's Constitution, including the scheme of delegation will be reviewed annually.
- 2.12 With the exception of the functions detailed which may not be delegated by the PCC, this scheme of delegation permits any person with a delegated function may delegate that power further.
- 3. Functions delegated to the Deputy Police and Crime Commissioner**
- 3.1 The PCC may appoint a deputy ("Deputy PCC") to exercise his functions, with the exception of those detailed in paragraph 2.10
- 3.2 The Deputy PCC may arrange for any other person to exercise any function of the PCC which is exercisable by the Deputy PCC, subject to section 18(5) of the Police Reform and Social Responsibility Act 2011
- 4. Functions delegated to the Executive Director, Office of the Police and Crime Commissioner**
- 4.1 To act as Monitoring Officer under section 5(1) Local Government and Housing Act 1989.
- 4.2 Prepare the Police and Crime Plan in consultation with Essex Police for submission to the PCC
- 4.3 Prepare an annual report for submission by the PCC to the Police and Crime Panel on the PCC's delivery against the objectives set out in the Police and Crime Plan
- 4.4 Provide information to the Panel, as appropriate to enable the Panel to carry out its functions
- 4.5 To execute all contracts on behalf of the PCC and Deputy PCC in accordance with and decisions made by the PCC or Deputy PCC.

- 4.6 To consider and approve, in consultation with the Treasurer, the indemnity to the PCC and Deputy PCC in accordance with the Local Authorities (Indemnities for Members and Officers) Order 2004.
- 4.7 To affix the common seal of the PCC as required by the financial regulations in force from time to time to:
- a) All contracts, agreements or transactions; in respect of which there is no consideration; or
 - b) That relate to the provision of goods and services by the PCC to another body which are £1million or above in value over the life of the contract; or
 - c) That are £1million or above in value over the life of the contract (in money or money's worth); or
 - d) Which grant or convey an interest in land; or
 - e) Which are grants that are £250,000 or above
 - f) When it is determined by the PCC that there is a particular need for the seal to be attached
- 4.8 To monitor all complaints made against officers and staff on behalf of the PCC
- 4.9 Agree the PCC and Essex Police budget for submission to the PCC
- 4.10 Approve the annual statement of accounts of the PCC and Essex Police Force
- 4.11 Approve business cases for revenue or capital expenditure in accordance with the financial regulations
- 4.12 Make arrangements to approve and appoint external solicitors and Counsel to represent the PCC from time to time.

Financial

- 4.13 To manage the PCC budget, along with the Treasurer, particularly with regard to:
- a) Ordering goods and services and paying for them if provided for in the revenue budget
 - b) Seeking and accepting quotations and tenders for goods and services provided for in the revenue budget
- 4.14 To fix fees for copies of documents and extracts of documents requested by members of the public from the PCC under the Freedom of Information Act 2000 and the Data Protection Act 1998.

Human Resources

- 4.15 To undertake the management of staff who are not employed by the Chief Constable in accordance with agreed policies and procedures
- 4.16 To make recommendations to the PCC with regard to PCC staff terms and conditions of service, in consultation with the Treasurer.
- 4.17 To appoint Independent Custody Visitors and terminate appointments thereof as necessary.

Other

- 4.18 To authorise the instigation, defence, withdrawal or settlement of any claims or legal proceedings on behalf of the PCC, in consultation with a legal advisor and the Treasurer if there are significant financial implications.
 - 4.21 To consider, with the PCC, any complaint made against the Chief Constable, and where appropriate, to make arrangements for the appointment of an officer or an independent third party to undertake an investigation.
5. **Functions delegated to the Treasurer, Office of the Police and Crime Commissioner**

Introduction

The Treasurer is the financial advisor to the PCC and has statutory responsibility to manage his / her financial affairs as detailed in sections 112 and 114 of the Local Government Finance Act 1988, and the Accounts and Audit Regulations 2011

The Chief Finance Officer must ensure that the financial affairs of the PCC are properly administered having regard to their probity, legality and relevant standards.

- 5.1 To approve the arrangements for the Treasury management function including the day to day management, production of Treasury management strategy and supporting policies and procedures.
- 5.2 Approve the arrangements for securing and preparing the PCC's accounts, and seek assurances that there are appropriate arrangements in place for the force's accounts.
- 5.3 Approve the opening of all Bank Accounts
- 5.4 To undertake the day to day management of the PCC's budget.

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- 5.5 To commit expenditure within the PCC's approved budget to meet the policies and objectives agreed with the PCC and reflected in the Policing Plan.
 - 5.6 To manage grants awarded to the PCC or Deputy PCC.
 - 5.7 Prepare from time to time, draft financial and contract regulations, in consultation with, and having due regard to the view of the force, for approval by the PCC.
 - 5.8 To act as money laundering reporting officer under the Proceeds of Crime Act 2002 and Money Laundering Regulations 2003 or other appropriate legislation from time to time in force.
 - 5.9 To prepare and annually review financial and contract regulations, in consultation with the force, for approval by the PCC or the Deputy PCC is appointed.
 - 5.10 To prepare and annually review a draft expenses and benefits framework for approval by the PCC.
 - 5.11 To determine when any goods are surplus to requirements or obsolete and arrange for disposal in line with financial requirements.
 - 5.12 To report to the PCC and the external auditor any unlawful or potentially unlawful spending by his, or the force's, officers.
 - 5.13 Provide for an effective internal audit service.
- 6. Urgent matters**
- 6.1 If any matter which would normally be referred to the PCC (or Deputy PCC, if appointed) for a decision arises and cannot be delayed, the matter may be decided by the appropriate chief officer.
 - 6.2 The appropriate persons authorised to decide urgent matters are:
 - a) the PCC Executive Director (all issues other than operational matters);
 - b) the PCC Treasurer (financial and related issues)
 - 6.3 Urgent decisions taken must be reported to the PCC as soon as practically possible.

[NOT PROTECTIVELY MARKED]

PART 2

SCHEME OF CONSENT BETWEEN THE PCC AND CHIEF CONSTABLE

1. General

1.1 The Chief Constable is a Corporation Sole and is responsible for employing police officers and other staff to maintain the Queen's peace. The Chief Constable has direction and control over the Force's officers and staff.

1.2 The Chief Constable is accountable to the law for the exercise of police powers, and to the PCC for the delivery of efficient and effective policing, management of resources and expenditure by the police force. At all times the Chief Constable, their constables and staff remain operationally independent in the service of the communities they serve.

2. Consents

2.1 Assets and Property

2.1.1 The PCC is the corporation sole which owns all the assets, land and buildings upon it including all rights and liabilities which derive from that ownership including those in the possession and use of the Chief Constable as a corporation sole. Any consent given by the PCC to the Chief Constable to enter into contracts is given on the condition that all assets arising from the contracts are for the use and benefit of the PCC.

2.1.2 The PCC gives consent to the Chief Constable to enter into contracts involving the sale or purchase of goods and services up to £250,000, provided that:

- i. Any assets arising from the transfer are treated in accordance with 2.1.1.
- ii. The contracts do not relate to land.
- iii. The contracts do not involve the borrowing of money.
- iv. The contracts contain provision for the transfer of any assets to the PCC with the rights reserved to the Chief Constable to have the use of the assets.
- v. The PCC is advised in writing of the intention to enter into the contract at least seven days in advance. On receipt of the written Notice, the PCC may withdraw his consent to enter into the contract or become either a party or the party to the contract of which he has been notified.

2.1.3 The role of the PCC outlined in Part 1 paragraph 1.3 including the specific responsibility to raise revenues, particularly through the precept which cannot be delegated, reinforce the position of retaining ownership of all assets and contracts for the benefit of the public of Essex.

2.2. VAT

The PCC gives consent to the Chief Constable to:

2.2.1. Transfer any VAT or tax benefit that at on 31st March 2014 belongs to the PCC to the new VAT Group once established.

2.3. Legal

The PCC gives consent to the Chief Constable in any legal proceedings involving the PCC and/or Chief Constable to:

2.3.1 Approve the financial settlement of all claims or requests for compensation that are non-significant because:

- a) The compensation to be paid is £100,000 or less (to include multiple or linked claims/claimants); or in the case of accident claims or ex gratia payments for damage caused by officers and staff the compensation sum is £10,000 or less.
- b) they do not involve a high profile claimant including Association of Chief Police Officer (ACPO) rank police officers
- c) there is no significant Public Interest in the case
- d) The risk that the PCC or the Police Force will be exposed to serious public criticism or serious weaknesses in the organisation or policies and procedures is considered low.
- e) it is not a test case.

2.3.2 Institute, defend or participate in legal actions to protect the interests of the force, the Office of the PCC and the Police and Crime Panel.

2.3.3 Provide advice, institute and defend legal proceedings on behalf of the PCC when requested to do so.

Police and Crime Commissioner for Essex

Constitution

Date: 31 March 2014

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Article 1 – The Constitution

1.1 The Constitution

The Constitution of the Police and Crime Commissioner for Essex comprises these Articles and the supporting Schedules.

1.2 Powers of the Police and Crime Commissioner

The Police and Crime Commissioner (the PCC), as the elected local policing body, will exercise all its powers and duties in accordance with the law and this constitution.

1.3 Purpose of the Constitution

The purpose of this Constitution is to set out how the PCC operates, its functions, how decisions are made and the procedure to be followed to ensure it operates in an efficient, transparent and accountable manner.

The Constitution sets out how the PCC will exercise its powers and duties to:

- (a) Secure the maintenance of the police force for Essex
- (b) Secure that the police force is efficient and effective
- (c) Work with the Chief Constable as a corporation sole

and how it will hold the Chief Constable for Essex to account for the exercise of the:

- (c) Functions of Chief Constable and
- (d) Functions of persons under the direction and control of the Chief Constable.

Article 2 - Composition of the PCC

2.1 Election

The elected local policing body comprises the person elected as Police and Crime Commissioner on 15 November 2012 and in each subsequent fourth year.

2.2 Term of office

The term of office of the person elected as PCC at an ordinary election:

- (a) Begins with the seventh day after the day of the poll at the election; and

- (b) Ends with the sixth day after the day of the poll at the next ordinary election.

Article 3 - Citizens' Rights and Responsibilities

- (1) The right, if on the electoral roll, to vote in the election of the PCC.
- (2) To exercise their rights to access information under the relevant legislation, including the Freedom of Information Act 2000 and the Data protection Act 1998
- (3) To inspect the accounts of the PCC and to make their views known to the external auditor
- (4) To complain about the conduct of the PCC

Article 4 - The PCC: Powers, Duties and Functions

4.1 Functions

- (1) The PCC must:
 - (a) secure the maintenance of the police force for Essex, and
 - (b) secure that the police force is efficient and effectiveand must hold the Chief Constable for Essex to account for the exercise of:
 - (a) the functions of the Chief Constable, and
 - (b) the functions of persons under the direction and control of the Chief Constable.
- (2) The PCC must, in particular, hold the Chief Constable to account for:
 - (a) the exercise of the duty under section 8(2) of the Police Reform and Social Responsibility Act 2011 (duty to have regard to Police and Crime Plan);
 - (b) the exercise of the duty under section 37A (2) of the Police Act 1996 (duty to have regard to strategic policing requirement);
 - (c) the exercise of the duty under section 39A (7) of the Police Act 1996 (duty to have regard to codes of practice issued by Secretary of State);
 - (d) the effectiveness and efficiency of the Chief Constable's arrangements for co-operating with other persons in the exercise of the Chief Constable's functions (whether under section 22A of the Police Act 1996 or otherwise);

- (e) the effectiveness and efficiency of the Chief Constable's arrangements under section 34 of the Police Reform and Social Responsibility Act 2011 (engagement with local people);
- (f) the extent to which the Chief Constable has complied with section 35 of the Police Reform and Social Responsibility Act 2011 (value for money);
- (g) the exercise of duties relating to equality and diversity imposed on the Chief Constable by any enactment;
- (h) the exercise of duties in relation to the safeguarding of children and the promotion of child welfare imposed on the Chief Constable by sections 10 and 11 of the Children Act 2004.

4.2 Duty to Issue a Police and Crime Plan

- (1) The PCC must issue a Police and Crime Plan within the financial year in which each ordinary election is held. For these purposes an 'ordinary election' includes the poll held on 15 November 2012 and the poll held in each subsequent fourth year.
- (2) The PCC must comply with the duty to issue a Police and Crime Plan as soon as practicable after taking office.
- (3) The PCC may, at any time, issue a Police and Crime Plan.
- (4) The PCC may vary a Police and Crime Plan.
- (5) In issuing or varying a Police and Crime Plan, the PCC must have regard to the strategic policing requirement issued by the Secretary of State under section 37A of the Police Act 1996.
- (6) Before issuing or varying a Police and Crime Plan, the PCC must –
 - (a) prepare a draft of the plan or variation,
 - (b) consult the Chief Constable in preparing the draft plan or variation,
 - (c) send the draft plan or variation to the Police and Crime Panel,
 - (d) have regard to any report or recommendations made by the Panel in relation to the draft plan or variation,
 - (e) give the Panel a response to any such report or recommendations, and
 - (f) publish any such response.
- (7) The PCC must ensure that the Police and Crime Panel has a reasonable amount of time to review the draft plan or variation and to make a report or recommendations to the PCC.

- (8) The PCC must consult again with the Chief Constable before issuing or varying a Police and Crime Plan if, and to the extent that, the Plan or variation is different from the initial draft on which the Chief Constable was consulted.
- (9) The PCC must:
- (a) keep the Police and Crime Plan under review, and
 - (b) in particular, review the Police and Crime Plan in the light of:
 - (i) any report or recommendations made to the PCC by the Police and Crime Panel on the PCC's Annual Report and
 - (ii) any changes in the strategic policing requirement issued by the Secretary of State under section 37A of the Police Act 1996;and exercise the powers to issue or vary the Police and Crime Plan accordingly.
- (10) When the PCC issues or varies a Police and Crime Plan it must:
- (a) send a copy of the issued plan, or the variation, to the Chief Constable and to each of the other persons and bodies that are, for the purposes of section 5 of the Crime and Disorder Act 1998, responsible authorities in relation to local government areas that are wholly or partly within the relevant police area, and
 - (b) publish a copy of the issued plan, or the variation.
- (11) The duty under Article 4.2 (10) to send or publish a copy of the variation may instead be satisfied by sending or publishing a copy of the plan as varied.
- (12) It is for the PCC to determine the manner in which:
- (a) a response to a report or recommendations is to be published in accordance with Article 4.2 (6) (f), and
 - (b) a copy of the plan or variation is to be published in accordance with Article 4.2 (10) (b).

4.3 Purpose of a Police and Crime Plan

- (1) A Police and Crime Plan is a plan which sets out, in relation to the planning period, the following matters:
- (a) the PCC's police and crime objectives;
 - (b) the policing of the Essex police area which the Chief Constable is to provide;

- (c) the financial and other resources which the PCC is to provide to the Chief Constable to enable him to exercise the functions of Chief Constable;
 - (d) the means by which the Chief Constable will report to the PCC on his provision of policing;
 - (e) the means by which the Chief Constable's performance in providing policing will be measured;
 - (f) the crime and disorder reduction grants which the elected PCC is to make and the conditions (if any) to which such grants are to be made.
- (2) The PCC's police and crime objectives are its objectives for:
- (a) the policing of the Essex area,
 - (b) crime and disorder reduction in the Essex area, and
 - (c) the discharge by the Essex police force of its national or international functions.
- (3) A Police and Crime Plan has effect from the start of the planning period until
- (a) the end of that planning period, or
 - (b) if another Police and Crime Plan is issued in relation to the PCC's area before the end of that planning period, the day when that other plan first has effect.
- (4) The PCC must have regard to any guidance by the Secretary of State about the matters to be dealt with in police and crime plans.
- (5) In this Article, "planning period", in relation to a Police and Crime Plan, is the period that:
- (a) begins with
 - (i) the day on which the plan is issued, or
 - (ii) if a qualifying day is specified in the plan as the day on which the plan is to begin to have effect, that day, and
 - (b) ends with the last day of the financial year in which the next ordinary election is expected to take place after the plan is issued;

4.4 Duty to have regard to the Police and Crime Plan

- (1) A PCC must, in exercising its functions, have regard to its Police and Crime Plan.
- (2) The Chief Constable for Essex must, in exercising the functions of chief constable, have regard to the Police and Crime Plan issued by the PCC for Essex.
- (3) The PCC and the Chief Constable must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.

4.5 Power to Make Crime and Disorder Reduction Grants

- (1) The PCC may make a crime and disorder reduction grant to any person.
- (2) A crime and disorder reduction grant is a grant which, in the opinion of the PCC, will secure, or contribute to securing, crime and disorder reduction in Essex.
- (3) The PCC may make a crime and disorder reduction grant subject to any conditions (including conditions as to repayment) which the PCC thinks appropriate.

4.6 Duties with regard to co-operative working

- (1) The PCC must, in exercising its functions, have regard to the relevant priorities of each responsible authority.
- (2) The PCC, in exercising its functions, and a responsible authority, in exercising its functions conferred by or under section 6 of the Crime and Disorder Act 1998 in relation to Essex, must act in co-operation with each other.
- (3) The PCC, and the criminal justice bodies which exercise functions as criminal justice bodies in Essex, must make arrangements (so far as it is appropriate to do so) for the exercise of functions so as to provide an efficient and effective criminal justice system for Essex.
- (4) A 'responsible authority' has the same meaning as in section 5 of the Crime and Disorder Act 1998.
- (5) In this Article "criminal justice body" means:
 - (a) the Chief Constable for the Essex police area;
 - (b) the Crown Prosecution Service;
 - (c) the Lord Chancellor, in exercising functions under section 1 of the Courts Act 2003 (duty to ensure efficient and effective courts service);
 - (d) a Minister of the Crown, in exercising functions in relation to prisons (within the meaning of the Prison Act 1952);
 - (e) a youth offending team established under section 39 of the Crime and Disorder Act 1998;
 - (f) a person with whom the Secretary of State has made contractual or other arrangements, under section 3(2) of the Offender Management Act 2007, for the making of probation provision;
 - (g) the Secretary of State, in making probation provision in accordance with arrangements made by the Secretary of State under section 3(5) of the Offender Management Act 2007;

4.7 Duty to publish information for public etc.

- (1) The PCC must publish information as specified by the Secretary of State. (Schedule 1)
- (2) The PCC must publish the information which it considers to be necessary to enable the persons who live in Essex to assess –
 - (a) the performance of the PCC in exercising its functions, and
 - (b) the performance of the Chief Constable in exercising his functions.
- (3) The information necessary to enable persons who live in Essex to assess the above matters by reference to a particular time, or a particular period, must be published by the PCC as soon as practicable after that time or the end of that period.
- (4) The PCC may provide (whether by publication or other means) information about
 - (a) the exercise of the PCC's functions, and
 - (b) the exercise of the functions of the Chief Constable.
- (5) The Information Sharing Agreement (ISA) with Essex Police sets out the arrangements for sharing information between the PCC and Essex Police (Schedule 2).

4.8 Duty to produce, consult on, and publish an Annual Report

- (1) The PCC must produce an annual report on:
 - (a) the exercise of the PCC's functions in each financial year, and
 - (b) the progress which has been made in the financial year in meeting the police and crime objectives in its police and crime plan.
- (2) As soon as practicable after producing an annual report, the PCC must send the report to the Police and Crime Panel.
- (3) The PCC must attend before the Police and Crime Panel at a public meeting, arranged by the Panel as soon as practicable after it receives the report, to:
 - (a) present the report to the Panel, and
 - (b) answer the Panel's questions on the report.
- (4) The PCC must:
 - (a) give the Panel a response to any report or recommendations on the annual report by the Panel, and

- (b) publish any such response.
- (5) It is for the Police and Crime Panel to determine the manner in which a response to a report or recommendations is to be published in accordance with Article 4.8 (4)(b).
- (6) The PCC must arrange for each annual report to be published.
- (7) It is for the PCC to determine the manner in which an annual report is to be published.

4.9 Duty to provide information for the Police and Crime Panel

- (1) The PCC must provide the Police and Crime Panel with any information which the Panel may reasonably require in order to carry out its functions.
- (2) But the PCC is not required to provide information if disclosure of the information:
 - (a) would, in the view of the Chief Constable, be against the interests of national security.
 - (b) might, in the view of the Chief Constable, jeopardise the safety of any person,
 - (c) might, in the view of the Chief Constable, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice, or
 - (d) is prohibited by or under any enactment.
- (3) The PCC may provide the Police and Crime Panel with any other information which the PCC thinks appropriate.
- (4) The Information Sharing Agreement between the PCC and the Police and Crime Panel for Essex (Schedule 3) sets out the arrangements for sharing information.

4.10 Arrangements for obtaining the views of the community on policing

- (1) Arrangements shall be made by the PCC, after consulting with the Chief Constable, for obtaining:
 - (a) the views of people in the Essex Police area about matters concerning the policing of the area, and
 - (b) their co-operation with the police in preventing crime and anti-social behaviour in that areaand for obtaining the views of victims of crime in that area about matters concerning the policing of the area.

- (2) Those arrangements must include arrangements for obtaining, before a Police and Crime Plan is issued, the views of the people in the police area, and the views of the victims of crime in that area, on that plan.
- (3) Those arrangements must include arrangements for obtaining, before the first precept for a financial year is issued by the PCC, the views of:
 - (a) the people in that police area, and
 - (b) the relevant ratepayers' representatives,
 on the proposals of the PCC for expenditure (including capital expenditure) in that financial year.
- (4) "relevant ratepayers' representatives" means the persons or bodies in the police area who appear to the PCC to be representative of persons subject to non-domestic rates under sections 43 and 45 of the Local Government Finance Act 1988 as regards hereditaments situated in that area.
- (5) In determining which persons or bodies are relevant ratepayers' representatives, the PCC must have regard to any guidance given by the Secretary of State.

4.11 Supply of goods and services

- (1) The Local Authorities (Goods and Services) Act 1970. Subsections (1), (2) and (3) of Section 1 (supply of goods and services by local authorities) apply, to the PCC as they apply to a local authority.
- (2) Subject to the provisions of section 1 of the 1970 Act, a local authority and any public body (which includes the PCC) may enter into an agreement for all or any of the following purposes,
 - (a) the supply by the authority to the PCC of any goods or materials;
 - (b) the provision by the authority for the PCC of any administrative, professional or technical services;
 - (c) the use by the PCC of any vehicle, plant or apparatus belonging to the authority and the placing at the disposal of the PCC of the services of any person employed in connection with the vehicle or other property
 - (d) the carrying out by the authority of works of maintenance in connection with land or buildings for the maintenance of which the PCC is responsible;
- (3) The PCC may not enter into an agreement with another PCC, or with the Common Council of the City of London in its capacity as a police authority, under section 1 of the 1970 Act in respect of a matter which could be the subject of force collaboration provision in a collaboration agreement under section 22A of the Police Act 1996.

4.12 Appointment of Persons not employed by PCC

- (1) This Article applies where a PCC is required or authorised by any Act:
 - (a) to appoint a person to a specified post in the PCC, or
 - (b) to designate a person as having specified duties or responsibilities.
- (2) The PCC may appoint or designate a person whether or not the person is already a member of staff of the body.
- (3) Article 4.12 (2) has effect in spite of any provision to the contrary in any Act that requires or authorises the PCC to appoint or designate a person mentioned in Article 4.12 (1).

4.13 Duties when carrying out functions

- (1) In carrying out functions, the PCC must have regard to the views of people in Essex.
- (2) In carrying out functions in a particular financial year, the PCC must have regard to any report or recommendations made by the Police and Crime Panel on the Annual Report for the previous financial year.
- (3) However, Article 4.13 (2) does not affect any exercise of the functions of the PCC in any part of a particular financial year that falls:
 - (a) before the PCC has received a report or recommendations from the Police and Crime Panel on the Annual Report for the previous financial year, or
 - (b) during the period after receipt of a report or recommendations from the Police and Crime Panel when the PCC is considering the report or recommendations.
- (4) In carrying out functions, the PCC must have regard to the Financial Management Code of Practice for the Police Service issued by the Secretary of State, relating to the proper administration by the PCC of its financial affairs (Schedule 4)
- (5) This Article is in addition to the duty of the PCC under Article 4.4 to have regard to the Police and Crime Plan.

4.14 Delegation of functions by PCC

4.14.1 Scheme of Delegation

The Scheme of Delegation (Schedule 5) details the key roles of the PCC and those functions which he designates to the Chief executive, Chief Finance Officer, Chief Constable and, if appointed, the Deputy PCC.

4.14.2 Delegation of Functions Generally

- (1) The PCC may:
 - (a) appoint a person as the Deputy Police and Crime Commissioner ('Deputy PCC') for Essex, and
 - (b) arrange for the Deputy PCC to exercise any function of the PCC.
- (2) The PCC may arrange for any person (who is not the Deputy PCC) to exercise any function of the commissioner.
- (3) But a PCC may not:
 - (a) appoint a person listed in Article 4.14 (6) as the Deputy PCC ;
 - (b) arrange for the Deputy PCC to exercise a function listed in Article 4.14 (7) (a), (e) or (f);
 - (c) arrange, under Article 4.14(2), for any person listed in Article 4.14 (6) to exercise any function; or
 - (d) arrange, under Article 4.14 (2), for any person to exercise a function listed in Article 4.14 (7).
- (4) A Deputy PCC may arrange for any other person to exercise any function of the PCC which is, in accordance with Article 4.14 (1) (b), exercisable by the Deputy PCC.
- (5) But the Deputy PCC may not arrange for a person to exercise a function if:
 - (a) the person is listed in Article 4.14 (6) or,
 - (b) the function is listed in Article 4.14 (7).
- (6) The persons referred to in Article 4.14 (3) (a) and (c) and (5) are:
 - (a) a Constable (whether or not in England and Wales);
 - (b) a Police and Crime Commissioner;
 - (c) the Mayor's Office for Policing and Crime;
 - (d) the Deputy Mayor for Policing and Crime appointed by the Mayor's Office for Policing and Crime;
 - (e) the Mayor of London;
 - (f) the Common Council of the City of London;
 - (g) any other person or body which maintains a police force;

- (h) a member of the staff of a person falling within any of paragraphs (a) to (g).
- (7) The functions referred to in Article 4.14 (3) are:
- (a) issuing the Police and Crime Plan (see section 5 Police Reform and Social Responsibility Act 2011 (the 'Act'));
 - (b) determining police and crime objectives (see section 7 of the Act);
 - (c) attendance at a meeting of the Police and Crime Panel in compliance with a requirement by the panel to do so (see section 29 of the Act);
 - (d) preparing the Annual Report to the Police and Crime Panel (see section 12 of the Act);
 - (e) appointing the Chief Constable, suspending the Chief Constable, or calling upon the Chief Constable to retire or resign (see section 38 of the Act);
 - (f) calculating a council tax requirement (see section 42A of the Local Government Finance Act 1992).
- (8) If a function of a PCC is exercisable by any other person in accordance with this Article then any property or rights vested in the PCC may be dealt with by the other person in exercising the function, as if vested in that person.
- (9) Article 4.14 (2) applies whether or not there is a Deputy PCC.
- (10) The Deputy PCC is a member of the PCC's staff.

Article 5 - Financial matters

5.1 Police Fund

- (1) The PCC must keep a fund to be known as the Police Fund.
- (2) All of a PCC's receipts must be paid into the Police Fund.
- (3) All of a PCC's expenditure must be paid out of the Police Fund.
- (4) A PCC must keep accounts of payments made into or out of the Police Fund.
- (5) Articles 5.1 (2) and (3) are subject to any regulations under the Police Pensions Act 1976.

5.2 Minimum Budget for PCC

- (1) The power of the Secretary of State to give directions under section 40 or 40A of the Police Act 1996 to a PCC includes power to direct the PCC that the amount of the PCC's council tax requirement (under section 42A of the Local Government Finance Act 1992) for any financial year shall not be less than an amount specified in the direction.
- (2) But the Secretary of State may not give a direction to the PCC unless the Secretary of State is satisfied that it is necessary to give the direction in order to prevent the safety of people in the Essex police area from being put at risk.
- (3) The power of the Secretary of State set out in Article 5.2 (1) above and any direction given under that power, are subject to any limitation imposed under Chapter 4ZA (Referendums Relating to Council Tax Increases) or Chapter IVA (Limitation of Council Tax and Precepts) of Part I of the Local Government Finance Act 1992.
- (4) A direction cannot be given by the Secretary of State in relation to a financial year at any time after the end of the preceding December.
- (5) Where the Secretary of State gives a direction to the PCC, any precept issued or calculation made by the PCC under Part I of the Local Government Finance Act 1992 which is inconsistent with the direction shall be void.

5.3 Police Grant

- (1) The Secretary of State shall for each financial year make grants for police purposes to the PCC and in those provisions a reference to a grant recipient is a reference to a PCC.
- (2) For each financial year the Secretary of State shall determine the amount of the grant to be made to the PCC, setting out in a report the considerations which he took into account in making the determination. A copy of the report shall be laid before the House of Commons.
- (3) In determining the allocation among grant recipients of the whole or any part of the aggregate amount of grants, the Secretary of State may exercise his discretion by applying such formulae or other rules as he considers appropriate.
- (4) A grant to the PCC shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may determine. Any 'such time' may fall within or after the financial year concerned.

5.4 Other grants under the Police Act 1996

- (1) The Secretary of State may make grants in respect of expenditure incurred (or to be incurred) for police purposes by the PCC on
 - (a) Capital Expenditure
 - (b) Safeguarding national securityand such grants may be made either unconditionally or subject to conditions.
- (2) Grants by local authoritiesThe council of a county, district, county borough, parish or community in the Essex police area may make grants to the PCC and such grants may be made unconditionally or, with the agreement of the Chief Constable for Essex, subject to conditions.
- (3) Acceptance of gifts or loans
 - (a) A PCC may, in connection with the discharge of any of its functions, accept gifts of money, and gifts or loans of other property, on such terms as appear to the PCC to be appropriate.
 - (b) The terms on which gifts or loans are accepted under subsection (1) may include terms providing for the commercial sponsorship of any activity of the PCC or of the Essex Police force save that the PCC shall consult with the Chief Constable before accepting sponsorship of any activity of the Essex Police force.
- (4) Grants and loans before start of the PCC's first precepting year
 - (a) The Secretary of State may make grants to the PCC in respect of expenditure incurred (or to be incurred) by the PCC at any time before the beginning of the PCC's first precepting year.
 - (b) Without prejudice to any other powers to borrow, a PCC may borrow by way of temporary loan or overdraft from a bank or otherwise any sums which it may require for the purpose of meeting its expenditure before the beginning of its first precepting year.
 - (c) The sums borrowed by the PCC must not exceed such amount as the Secretary of State may determine, and shall be repaid before the end of its first precepting year.
 - (d) The "first precepting year" of the PCC is the financial year in which revenue is first received by it as a result of a precept issued by the PCC under Part I of the Local Government Finance Act 1992

5.5 Precepts

- (1) The PCC is a major precepting authority for the purposes of Part 1, Local Government and Finance Act 1992
- (2) The duty of billing authorities or major precepting authorities under the 1992 Act to consult persons or bodies representative of persons subject to

non-domestic rates as regards hereditaments situated in the area does not apply to the PCC.

5.6 Other grants etc.

Emergency financial assistance

- (a) in any case where an emergency or disaster occurs involving destruction of or danger to life or property, and
- (b) as a result, the PCC incurs expenditure on, or in connection with, the taking of immediate action (whether by the carrying out of works or otherwise) to safeguard life or property, or to prevent suffering or severe inconvenience, in its area or among its inhabitants,
- (c) the Secretary of State may establish a scheme under section 155 of the local government and Housing Act 1989 for the giving of financial assistance in respect of that expenditure.
- (d) Expenditure incurred by the PCC may include expenditure incurred in defraying, or contributing towards defraying, expenditure incurred by a parish or community council.

Article 6 - Conduct

The Policing Protocol Order 2011 (Schedule 6) requires the PCC to abide by the seven principles set out in Standards in Public Life: First Report of the Committee on Standards in Public Life (known as "The Nolan Principles")

6.1 The Nolan Principles

Selflessness - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership - Holders of public office should promote and support these principles by leadership and example.

6.2 Voluntary Code of Conduct

- (1) The PCC will be bound in honour by a voluntary Code of Conduct (Schedule 7).
- (2) The PCC will, within 28 days of taking office, enter in the Register of disclosable interests maintained by the Monitoring Officer every disclosable interest as set out in the Register.
- (3) The register of interests and gifts and hospitality shall be published on the PCC's website

6.3 Conflicts of Interest

- (1) The PCC, in any case where the interests of exercising the functions of his office may conflict with any disclosable or other interest, which has become known to him, shall as soon as possible, declare such conflict as is required in accordance with the paragraph 3 of the Elected Local Policing Bodies (Specified Information) Order 2011 [Schedule 1 to this Constitution].
- (2) The PCC shall determine whether the conflict of interest is so substantial that the function should not be exercised personally but should be delegated or dealt with in some other manner to ensure the conflict of interest does not arise

Article 7 – Complaints and Conduct matters

7.1 Serious Complaints and conduct matters which relate to the PCC or Deputy PCC;

Will be investigated:

- (a) by the Independent Police Complaints Commission, or
- (b) by a police force, in an investigation that is under the management of the Independent Police Complaints Commission.

and, for these purposes a "serious complaint" means a complaint made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence.

7.2 Other complaints which relate to the PCC or Deputy PCC

Police and Crime Panels must engage in informal resolution of complaints which are not, or cease to be, investigated by the Independent Police Complaints Commission or a police force

7.3 The Relevant Regulations

The relevant Regulations setting out the functions of the Police and Crime Panel and the Independent Police Complaints Commission in relation to the handling of complaints and other matters concerning the conduct of the PCC and Deputy PCC are attached at Schedule 8.

The Regulations also set out the process to be followed in dealing with these complaints and conduct matters

Article 8 - Appointment, Suspension and Removal of Chief Constable etc.

- (1) The PCC for Essex appoints the Chief Constable of the Essex Police force.
- (2) The PCC may suspend from duty the Chief Constable.
- (3) The PCC may call upon the Chief Constable to resign or retire.
- (4) The Chief Constable must retire or resign if called upon to do so by the PCC.
- (5) The PCC's actions in appointing, suspending or removing the Chief Constable must comply with Parts 1 and 2 of Schedule 8 of the Act; The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012; (attached as Schedule 9 and Schedule 10 respectively) and any other Regulations made under section 50 of the Police Act 1996

Article 9 - The Office of PCC

9.1 Date of vacancy in the office of PCC

- (1) A vacancy in the office of PCC occurs
 - (a) in the case of a vacancy in consequence of the failure of, or other irregularity in relation to, an election, at the time specified by the Secretary of State in an order made under section 58 of the Act;
 - (b) in the case of resignation, on receipt of the notice of resignation by the appropriate officer;
 - (c) in the case of death, on the date of death;

- (d) in any case within Article 9.1 (2), on the date on which the office of PCC is declared to have been vacated by the High Court or by the appropriate officer [see Article 9.9 for meaning of "appropriate officer"], as the case may be.
- (2) The cases referred to in Article 9.1 (1) (d) are
 - (a) where the person elected as PCC fails to make and deliver a declaration of acceptance of office in accordance with section 70 of the Act;
 - (b) where a vacancy arises under section 63 of the Act (incapacity of PCC: acting PCC acting for 6 months);
 - (c) where a person becomes disqualified –
 - (i) from being a PCC, or
 - (ii) from being the PCC for Essex.
 - (3) The appropriate officer must give public notice of a vacancy in the office of PCC for Essex police area.
 - (4) The appropriate officer must give notice of a vacancy in the office of PCC to the police area returning officer.
 - (5) Any notice of a vacancy must be given as soon as practicable after the date on which the vacancy occurs.

9.2 Declaration of vacancy in the office of PCC in certain cases

- (1) Article 9.2 (2) applies where
 - (a) the PCC for Essex becomes disqualified (whether by virtue of the Police Reform and Social responsibility Act 2011 or any other Act) –
 - (i) from being a PCC, or
 - (ii) from being the PCC for Essex,
 - (b) the person elected as PCC fails to make and deliver a declaration of acceptance of office in accordance with section 70 of the Act, or
 - (c) a vacancy arises because a period of six months has expired since an acting PCC had been appointed due to the incapacity of the PCC to act.
- (2) The appropriate officer must forthwith declare the office of PCC to be vacant, unless
 - (a) it has been declared vacant by the High Court, or

- (b) an application has been made to the High Court for a declaration under section 71 of the Act [judicial proceedings as to disqualification or vacancy] and the grounds in issue include any ground on which the appropriate officer would (but for this paragraph) make the declaration.

9.3 Resignation of the PCC

- (1) The PCC may at any time resign office by giving notice to the appropriate officer.
- (2) Any such resignation takes effect on the appropriate officer's receipt of the notice.

9.4 Disqualification from election or holding office as PCC – police grounds

- (1) A person is disqualified from being elected as, or being, a PCC if the person
 - (a) is disqualified from being a member of the House of Commons under section 1(1)(d) of the House of Commons Disqualification Act 1975 (members of police forces for police areas in the United Kingdom);
 - (b) is a member of:
 - (i) the British Transport Police Force;
 - (ii) the Civil Nuclear Constabulary;
 - (c) is a Special Constable appointed:
 - (i) under section 27 of the Police Act 1996 for a police area or the City of London police area;
 - (ii) under section 25 of the Railways and Transport Safety Act 2003 (British Transport Police Force);
 - (d) is a member of staff of the Chief Officer of police of any police force maintained for a police area;
 - (e) is a member of staff of:
 - (i) a Police and Crime Commissioner;
 - (ii) the Mayor's Office for Policing and Crime;
 - (f) is the Mayor of London;
 - (g) is a member of the Common Council of the City of London or a member of staff of that Council in its capacity as a police authority;
 - (h) is a member (including a member who is chairman or chief executive), or member of staff, of:

- (i) the British Transport Police Authority;
 - (ii) the Civil Nuclear Police Authority;
 - (iii) the Independent Police Complaints Commission;
 - (iv) the Serious Organised Crime Agency;
 - (v) the National Policing Improvement Agency;
- (i) holds any employment in an entity which is under the control of –
- (i) a local policing body;
 - (ii) any body mentioned in paragraph (h);
 - (iii) the Chief Officer of police for any police force maintained for a police area or the City of London police area;
 - (iv) the Chief Officer of police for any police force mentioned in paragraph (b).
- (2) In this Article, "member of staff", in relation to any person ("A"), includes a person ("B") who works for A:
- (a) under a contract of employment,
 - (b) under a contract for services, or
 - (c) in accordance with arrangements made between B's employer and A;

And for this purpose B works for A if B provides services for A under the direction and control of A.

9.5 Disqualification from election or holding office as PCC – other grounds

- (1) A person is disqualified from being elected as, or being, a PCC unless the person satisfies the citizenship condition set out in section 68 of the Act.
- (2) A person is disqualified from being elected as, or being, a PCC if the person:
 - (a) is disqualified from being a member of the House of Commons under section 1(1) (a) to (c) of the House of Commons Disqualification Act 1975 (judges, civil servants, members of the armed forces), or
 - (b) is a member of the legislature of any country or territory outside the United Kingdom.
- (3) A person is disqualified from being elected as, or being, a Police and Crime Commissioner if:

- (a) the person is the subject of:
 - (i) a debt relief restrictions order under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986;
 - (ii) an interim debt relief restrictions order under paragraph 5 of that Schedule;
 - (iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to that Act;
 - (iv) a bankruptcy restrictions interim order under paragraph 5 of that Schedule;
 - (b) a debt relief restrictions undertaking has effect in respect of the person under paragraph 7 of Schedule 4ZB to that Act;
 - (c) the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man, of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence); or
 - (d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House of Commons, under Part 3 of the Representation of the People Act 1983(consequences of corrupt or illegal practices).
- (4) A person is disqualified from being elected as, or being, PCC if the person:
- (a) is a member of staff of a relevant council listed in Article 9.5 (4) (c), or
 - (b) holds any employment in an entity which is under the control of a relevant council within subsection Article 9.5 (4) (c) (i), (ii) or (iii).
 - (c) Relevant councils are those councils for an area which, or any part of which, lies within the Essex police area:
 - (i) a County Council;
 - (ii) a County Borough Council;
 - (iii) a District Council;
 - (iv) a Parish Council;
 - (v) a Community Council;

9.6 Disqualification of person holding office as PCC

A person becomes disqualified from being a PCC upon becoming a member of:

- (a) the House of Commons;
- (b) the Scottish Parliament;
- (c) the National Assembly for Wales;
- (d) the Northern Ireland Assembly;
- (e) the European Parliament

9.7 Validity of acts despite any disqualifications

The acts of the person elected as PCC for Essex who acts in that office are, despite any disqualification:

- (a) from being, or being elected as, a PCC, or
- (b) from being, or being elected as PCC for Essex, as valid and effectual as if the person had not been so disqualified.

9.8 Declaration of acceptance of office of PCC

(1) A person elected to the office of PCC for Essex may not act in that office unless the person has:

- (a) made a declaration of acceptance of the office in a form specified in Schedule 11 to this Constitution, and
- (b) delivered the declaration to the appropriate officer,

in each case, when not ineligible by virtue of Article 9.8 (5).

(2) If the person fails to make and deliver a declaration in accordance with Article 9.8 (1) within the period of two months beginning with the day after the election, the office of PCC for Essex becomes vacant at the end of the period.

(3) Any declaration must be made before:

- (a) the appropriate officer;
- (b) a Justice of the Peace or Magistrate in the United Kingdom, the Channel Islands or the Isle of Man, or
- (c) a Commissioner appointed to administer oaths in the Senior Courts.

- (4) A person is ineligible to make or give a declaration of acceptance of office in respect of the office of PCC for Essex at any time when the person is a member of:
 - (a) the House of Commons;
 - (b) the Scottish Parliament;
 - (c) the National Assembly for Wales;
 - (d) the Northern Ireland Assembly;
 - (e) the European Parliament.
- (5) No salary, and no payment towards the provision of superannuation benefits, can be paid under the Act to or in respect of the PCC until the PCC has complied with the requirements of Article 9.8 (1).
- (6) Article 9.8 (6) does not affect any entitlement of the PCC to payments in respect of the period before the PCC complies with the requirements of Article 9.8 (1) once the PCC has complied with those requirements.

9.9 The “Appropriate Officer” for the purposes of Article 9

- (1) The “Appropriate Officer” for the purposes of Article 9 is the Head of Paid Service for Chelmsford City Council
- (2) The “Head of Paid Service”, means the person designated by the Council under section 4(1) (a) of the Local Government Act 1989.

Article 10 - Collaboration Agreements

10.1 Making Collaboration Agreements

- (1) A collaboration agreement may be made by:
 - (a) two or more PCCs; or
 - (b) the Chief Officers of police of one or more police forces and two or more PCCs.
- (2) A collaboration agreement is an agreement containing one or more of the following:
 - (a) provision about the discharge of functions of members of a police force (“force collaboration provision”);
 - (b) provision about support by a PCC for another PCC (“policing body collaboration provision”);
 - (c) provision about support by a PCC for the police force which another PCC is responsible for maintaining (“policing body and force collaboration provision”).

- (3) A collaboration agreement may not contain force collaboration provision unless the parties to the agreement consist of, or include, -
 - (a) the Chief Officer of police of each police force to which the provision relates, and
 - (b) the PCC that is responsible for maintaining each such police force.
- (4) A collaboration agreement may not contain PCC collaboration provision unless the parties to the agreement consist of, or include, each PCC to which the provision relates.
- (5) A collaboration agreement may not contain PCC and force collaboration provision unless the parties to the agreement consist of, or include:
 - (a) the PCC, or each PCC, to which the provision relates;
 - (b) the Chief Officer of Police of the police force, or each police force, to which the provision relates; and
 - (c) the PCC that is responsible for maintaining each such police force.
- (6) Article 10.1 (1) does not prevent other persons from being parties to collaboration agreements.
- (7) Article 10.1 (2) does not prevent a collaboration agreement from including other kinds of provision.
- (8) For the purposes of Articles 10.1 (3) and (5), the circumstances in which force collaboration provision, or PCC and force collaboration provision, is to be taken to relate to a police force include the cases where provision relates:
 - (a) to functions of a kind which are or may be exercisable by members of that police force, or
 - (b) to the police area for which that police force is established.
- (9) For the purposes of Articles 10.1 (4) and (5), the circumstances in which PCC collaboration provision, or PCC and force collaboration provision, is to be taken to relate to a PCC include the cases where provision relates:
 - (a) to functions of a kind which are or may be exercisable by that PCC or members of the staff of that PCC, or
 - (b) to the police area for which that PCC is established.

10.2 Duty of PCC to keep collaboration agreements under review

- (1) The PCC must keep under consideration the ways in which the collaboration functions could be exercised by the PCC and by one or more other persons to improve:
 - (a) the efficiency or effectiveness of –
 - (i) the PCC,
 - (ii) the Essex Police force which the PCC is responsible for maintaining, or
 - (iii) the PCC and Essex Police force, and
 - (b) the efficiency or effectiveness of one or more other PCCs and police forces.
- (2) If the PCC considers that there is a particular way in which the collaboration functions could be so exercised by the PCC and by one or more other particular persons (“the proposed collaboration”), the PCC must notify those other persons (the “proposed partners”) of the proposed collaboration.
- (3) The PCC, and the proposed partners notified under Article 10.2 (2) (the “notified proposed partners”), must consider whether to exercise the collaboration functions to give effect to the proposed collaboration.
- (4) In considering whether to so exercise the collaboration functions, the PCC and the notified proposed partners must consider whether the proposed collaboration would be in the interests of the efficiency or effectiveness of one or more PCCs or police forces.
- (5) Article 10.2 (6) applies if all, or two or more, of:
 - (a) the PCC, and
 - (b) the notified proposed partners,(the “agreeing parties”) are of the view that the proposed collaboration would be in the interests of the efficiency or effectiveness of one or more PCCs or police forces (if the agreeing parties were to exercise the collaboration functions to give effect to the proposed collaboration, or to give effect to it so far as it relates to them).
- (6) The agreeing parties must exercise the collaboration functions so as to give effect to the proposed collaboration, or to give effect to it so far as it relates to them.
- (7) In this Article “collaboration functions” means functions of PCCs or chief officers of police under any of sections 22A to 23I of the Police Act 1996

Article 11 - Senior Appointments and Staff

11.1 Executive Director, Treasurer and Monitoring Officer

- (1) The PCC must appoint:
 - (a) a person to be the head of the PCC's staff (Executive Director), who will also act as the Monitoring Officer; and
 - (b) a person to be responsible for the proper administration of the PCC's financial affairs (Treasurer), who must be a member of an accountancy body specified in section 113 of the Local Government Finance Act 1988.
- (2) The PCC must notify the Police and Crime Panel of each proposed senior appointment and the PCC must also notify the Panel of the following information:
 - (a) the name of the person whom the PCC is proposing to appoint ("the candidate");
 - (b) the criteria used to assess the suitability of the candidate for the appointment;
 - (c) why the candidate satisfies those criteria; and
 - (d) the terms and conditions on which the candidate is to be appointed.
- (3) The PCC may accept or reject the Panel's recommendation as to whether or not the candidate should be appointed.
- (4) The PCC must notify the Panel of the decision whether to accept or reject the recommendation.

11.2 Appointment of other staff

The PCC may appoint such other staff as he thinks appropriate to enable him to exercise the functions of PCC.

11.3 Senior post vacant etc.

The PCC must appoint a person to act as Executive Director, and a Treasurer , if and for as long as –

- (a) that post is vacant, or
- (b) the holder of that post is, in the PCC's opinion, unable to carry out the duties of that post.

11.4 Appointment of Deputy Police and Crime Commissioner

- (1) The PCC may:
 - (a) appoint a person as the Deputy PCC, and
 - (b) subject to Article 4 arrange for the Deputy PCC to exercise any function of the PCC.
- (2) The PCC must notify the Police and Crime Panel of the proposed appointment and the PCC must also notify the Panel of the following information:
 - (a) the name of the person whom the PCC is proposing to appoint ("the candidate");
 - (b) the criteria used to assess the suitability of the candidate for the appointment;
 - (c) why the candidate satisfies those criteria; and
 - (d) the terms and conditions on which the candidate is to be appointed.
- (3) The PCC may accept or reject the Panel's recommendation as to whether or not the candidate should be appointed.

11.5 Deputy PCC – persons who may not be appointed

- (1) None of the following may be appointed as the Deputy PCC:
 - (a) a person who has not attained the age of 18 on the day of the appointment;
 - (b) a person who is subject to a relevant disqualification;
 - (c) a Member of the House of Commons;
 - (d) a member of the European Parliament;
 - (e) a member of the National Assembly for Wales;
 - (f) a member of the Scottish Parliament;
 - (g) a member of the Northern Ireland Assembly.
- (2) The terms and conditions of a person who is appointed as the Deputy PCC must provide for the appointment to end not later than the day when the current term of office of the appointing PCC ends.
- (3) Section 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the Deputy PCC.

- (4) A person is subject to a relevant disqualification (Article 11(5) (1) (b)) if he is disqualified from being elected as, or being, a PCC under –
 - (a) section 65(1) of the Act (police officers, police-related employment etc.), other than paragraph (e) (ii); or
 - (b) section 66(1), (3) (a) (iii) or (iv), (3) (c) or (3) (d) of the Act (citizenship, bankruptcy, criminal convictions and corrupt or illegal election practices).

11.6 Staff – General Provisions

- (1) The recruitment, selection and dismissal of employees will comply with the (officer employment rules).
- (2) Staff will comply with the staff code of conduct contained within ??? of this Constitution.
- (3) The functions set out within this article are in addition to those delegations to the Executive Director and Treasurer set out within Schedule 5 to this Constitution.
- (4) All staff shall have regard to the 7 principles of public life as set out in Article 6.
- (5) The Executive Director and Treasurer will: -
 - (i) Contribute to the corporate management of the office of the PCC;
 - (ii). Represent and promote the office of the PCC securing high quality services that demonstrate best value;
 - (iii). Develop partnership working.

11.7 Executive Director (Designated Head of Paid Service under Section 4 of the Local Government and Act 1989) who shall have the following functions and areas of responsibility:

- (1) Overall corporate management;
- (2) Overall operational responsibility (including overall management responsibility for all staff);
- (3) Strategic development and performance of the office for the PCC;
- (4) Provision of professional advice to the PCC in the decision-making process;

- (5) Responsibility for a system of record keeping for all decisions of the PCC;
- (6) Representing the PCC on partnership and external bodies (as required);
- (7) The Executive Director will report to the PCC and the Police and Crime Panel on the manner in which the discharge of the PCC's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff.

11.8 Functions of the Monitoring Officer

- (1) The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by the PCC, the Chief Constable, their staff and the public.
- (2) After consulting with the Treasurer, the Monitoring Officer will report to the PCC and to the Police and Crime Panel if he/she considers that any proposal, decision or omission would give rise to unlawfulness or any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (3) The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Ethics and Integrity Sub Committee.
- (4) The Monitoring Officer will ensure that decisions of the PCC, together with the reasons for those decisions and relevant staff reports and background papers are made publicly available as soon as possible.
- (5) The Monitoring Officer will be the primary qualified person with regard to the disclosure of exempt information under Section 36 of the Freedom of Information Act 2000. In the absence of the Monitoring Officer, responsibility for carrying out the function will fall to the Treasurer.
- (6) The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget to the PCC.
- (7) The Monitoring Officer cannot be the Treasurer.

11.9 Functions of the Treasurer

- (1) After consulting with the Executive Director, the Treasurer will report to the PCC and the PCCs external auditor if he considers that any proposal, decision or cause of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the PCC is about to enter an item of account unlawfully.
- (2) The Treasurer will have responsibility for the administration of the financial affairs of the PCC and ensure maintenance of an efficient and effective internal audit function.
- (3) The Treasurer will contribute to the corporate management of the office of the PCC, in particular through the provision of professional financial advice.
- (4) The Treasurer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and the budget and will support and advise the PCC and his staff in their respective roles.
- (5) The Treasurer will provide financial information to the media, members of the public and the community.
- (6) The Treasurer shall not be the Monitoring Officer.

11.10 Duty to provide sufficient resources to the Monitoring Officer.

The PCC will provide to the Monitoring Officer such staff, accommodation and other resources as are in the opinion of the Monitoring Officer sufficient to allow his duties to be performed, in accordance with the provisions with the Local Government and Housing Act 1989.

Article 12 - Miscellaneous Provisions

12.1 Remuneration etc. of staff

- (1) A PCC may pay remuneration, allowances and gratuities to the members of his staff.
- (2) A PCC may pay –
 - (a) pensions to, or in respect of, persons who have been members of his staff, and
 - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been members of his staff.

- (3) In this Article “allowances”, in relation to a member of a PCC's staff, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff.

12.2 Incidental powers

- (1) A PCC may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of PCC.
- (2) That includes –
 - (a) entering into contracts and other agreements (whether legally binding or not);
 - (b) acquiring and disposing of property (including land);
 - (c) borrowing money.
- (3) These powers are subject to the other provisions of the Act and to any other enactment about the powers of PCCs.

12.3 Protection from personal liability

- (1) A person who is a PCC has no personal liability for an act or omission done by him in the exercise of the PCC's functions unless it is shown to have been done otherwise than in good faith.
- (2) A person who is a member of staff of a PCC has no personal liability for an act or omission done by him in the carrying out of duties as a member of staff unless it is shown to have been done otherwise than in good faith.

12.4 Financial year

- (1) The first financial year of a PCC is the period that:
 - (a) begins with the day on which the first election of the PCC is held, and
 - (b) ends with the following 31 March
- (2) After that, a PCC's financial year is the period of 12 months ending with 31 March.

12.5 Government Protective Marking Scheme (GPMS)

- (1) The PCC has adopted the GPMS (Schedule 12)
- (2) Protective Marking refers to all information, which includes but is not limited to, physical assets (e.g., paper records, drawings, photos) and electronic assets (e.g., electronic data records, digital images, word documents). It concerns the storage, transmission, carriage and disposal of information throughout the lifecycle of the data.

- (3) The scheme affects all persons working for the PCC or Chief Constable, or other outside bodies who may be expected to handle protectively marked information during the course of their business or relationship with the PCC.

Article 13 - Decision making

13.1 Responsibility for Decision Making

- (1) The PCC's Scheme of Delegation sets out the discharge of PCC functions (Schedule 5) and may be subject to amendment at any time
- (2) The PCC will maintain the record of the body or person having responsibility for a decision or decisions relating to a function or functions of the PCC.

13.2 Principles of Decision Making

- (1) All decisions taken in the discharge of a function of the PCC shall have regard to the following matters:
 - (a) The presumption in favour of openness and transparency
 - (b) The need for consultation with interested parties.
 - (c) The need to take account of relevant professional advice from appropriate officers.
 - (d) The need for clarity of aims and desired outcomes.
 - (e) The need to identify the range of options considered.
 - (f) The need to give reasons and explanation for a decision
 - (g) The need to have due regard to the Government Protective Marking Scheme (GPMS) when considering disclosure of reports and documents supplied to him by Essex Police.

13.3 Written Reports and Decision Records

- (1) The PCC, or Deputy PCC, shall not take any decision without first having reviewed and considered a written report on the matter.
- (2) In exceptional circumstances, and with the prior agreement of the Monitoring Officer, the need for a written report may be dispensed with. In which case all verbal advice and opinion provided shall be noted and recorded, as the case may be, in the minutes of the meeting or in the decision record.

- (3) Any other person making a decision under powers delegated to him by the PCC shall, where that person believes that is proportionate to do so in exercising those powers, produce a written statement which must include:
 - (a) A record of the decision, including the date it was made;
 - (b) A record of the reasons for the decision;
 - (c) Details of any alternative options considered and rejected when making the decision

as soon as reasonably practicable after making the decision.

13.4 Recording the Delegation of Functions by the PCC

- (1) The PCC shall provide the Monitoring Officer with a written report updating immediately the arrangements under the Scheme of Delegation for the discharge of any of the PCC's functions if the PCC makes any amendment to those arrangements.
- (2) The report of the PCC provided to the Monitoring Officer shall contain the following information:
 - (a) The nature and extent of any authority delegated to the Deputy PCC or any other person to exercise any function of the PCC.
 - (b) The nature and extent of any authority delegated by the Deputy PCC to any other person to exercise any function of the Deputy PCC
 - (c) The nature and extent of any delegated authority provided under any joint arrangements
 - (d) The nature and extent of any delegated authority provided to a member of the PCC's staff, including any conditions attached and the title of the post concerned.

13.5 General Provisions

- (1) The exercise of any delegated authority to take a decision in the discharge of a PCC function is subject to the following:
 - (a) The person making the decision has first considered a written report prepared by an appropriate officer.
 - (b) Any decision taken shall be in accordance with PCC's budget and policy framework, financial regulations and contract standing orders and any condition imposed by the law, this Constitution and any relevant statutory guidance.

- (c) Any person may, as he may determine appropriate, refer any matter falling within the authority delegated to him to the PCC.
- (d) The fact that a function has been delegated shall not prevent the discharge of that function by the person that delegated the function.

Article 14 – Finance, Contracts, and Legal matters

14.1 Financial Regulations and Contract Standing Orders

- (1) The management of the PCC's financial affairs will be conducted in accordance with Financial Regulations and Contract Standing Orders in Schedule 13 to the Constitution.

14.2 Every contract made by the PCC will comply with the Financial Regulations.

14.3 Preventing Fraud and Corruption

- (1) The PCC is firmly committed to dealing with fraud and corruption and will deal equally with both internal and external perpetrators. The PCC's Anti-Fraud and Corruption Strategy is set out in Schedule 14 to this Constitution.
- (2) The Chief Finance Officer is responsible for the development and maintenance of the Anti-Fraud and Corruption Strategy

14.4 Legal Matters

- (1) The Executive Director is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the PCC or in any case where he/she considers that such action is necessary to protect the PCC's interests.
- (2) Where any document is necessary to any legal procedure or proceedings on behalf of the PCC, it will be signed by the Executive Director or other person authorised by him/her unless any enactment otherwise authorises or requires.
- (3) The Common Seal of the PCC will be kept in a safe place in the custody of the Executive Director. A decision of the PCC or anyone exercising authority delegated to him by the PCC will be sufficient authority for sealing any document necessary to give effect to the decision.
- (4) The Common Seal will be affixed to those documents which in the opinion of the Executive Director should be sealed. The affixing of the Common Seal will be attested by the Executive Director or some other person authorised by him.

Article 15 - PCC for Essex Committees

- 15.1.** The PCC will appoint the committees set out below to discharge the functions listed under each.

Each of the committees will conduct its business in accordance with this Constitution. The committees will be private and will not meet in public but an account of the committees business will be prepared and published on the website for PCC for Essex within 7 days of the committees meeting.

15.2 The Essex Strategic Policing Board

- 15.2.1** To advise the PCC on strategic issues affecting Essex Police and in relation to the future of and vision for, policing in Essex.

- 15.2.2.** Strategic issues shall mean any matter that affects the office of the PCC for Essex, the Essex Police Force, policing in Essex and any policing outside Essex in which the Essex Police force are involved.

- 15.2.3** Membership shall be:

PCC – Chair.

Chief Constable.

PCC for Essex Executive Director – Secretary.

Treasurer to the PCC

Essex Police Director of Finance

Essex Police Director of Corporate Services

4 x Independent Advisors appointed by the PCC

- 15.2.4.** For the avoidance of doubt, the Committee will have no decision making powers and any decisions arising out of matters considered by the Committee will be made in accordance with Article 13.

15.2.5 Meetings

- The Board shall meet a minimum of three times a year.
- The secretariat shall be provided by the Executive Director of the Office for the PCC.
- Formal minutes will be circulated 10 working days after each meeting.
- The Board will agree and publish an annual work programme to include those issues and areas that it wishes to consider and review

- 15.2.6** The Committee shall have the power to appoint two sub committees to support its work as set out at 15.3 and 15.4 below.

15.3 The Finance Sub Committee

15.3.1 To advise the PCC in relation to all matters affecting the financing of the office of the PCC and the Essex Police Force except for those matters expressly reserved to the Independent Audit Committee. This will include all the financial business set out in Article 5.

15.3.2 Deputy PCC – Chair
Executive Director of the office of the PCC
Chair of the Audit Committee
Treasurer to the PCC
Essex Police Director of Finance
Essex Police Director of Corporate Services
Essex Police Chief Financial Officer

15.3.3 The sub committee shall meet a minimum of four times a year.

15.3.4 For the avoidance of doubt, the Committee will have no decision making powers and any decisions arising out of matters considered by the Committee will be made in accordance with Article 13.

15.4 Ethics and Integrity Sub Committee

15.4.1 To inform the PCC on all matters relating to the ethics and integrity of policing in Essex.

15.4.2 The sub-committee will consider ethics and integrity in relation to key Strategic policing matters, both current and future.

The sub-committee will report to the Essex Strategic Policing Board to inform the work of the PCC, the Chief Constable and the Board as a whole.

15.4.3 The Sub Committee will not consider: -

- Operational issues or individual cases save it may have regard to themes emerging from such matters.
- Individual complaints made against police officers or staff.

15.4.4 Membership

PCC – Chair
Deputy PCC
Executive Director Office of the PCC/and or the Assistant Director of Performance and Scrutiny.
Essex Police Head of Professional Standards and Discipline
Chief Constable.
Two independent advisors appointed by the PCC

The PCC may also add to the membership additional independent advisors and/or legal advisers at his discretion in relation to any particular matter which may fall to be considered by the sub-committee.

15.4.5 In advising the PCC, the Sub Committee will at all times have regard to the Nolan Principles set out in Article 6, the College of Policing Code of Ethics and any other statutory or non statutory code or guidance relevant to the ethics and integrity of policing.

15.4.6 Subject to 15.4.4 above, the following definitions shall apply: -

(1) Integrity:

The conviction that Essex Police should comply, not only with the letter of the law but also with the spirit of the law and with Police Regulations, and that Essex Police Officers and staff behave in a way that attracts public trust and confidence. This includes the moral courage to do what is right regardless of personal interest or influence.

(2) Ethics.

The set of behaviours, values and beliefs which underpin policing in Essex. This means that the Police will consistently demonstrate behaviours and values that the public believe to be morally right when upholding the law.

15.4.7 Without limiting the Sub Committee's role to inform as set out in 15.4.1 and subject always to 15.4.2, the Sub Committee will undertake consideration and review of the following matters: -

- Judgements about defining the harm resulting from crime.
- Lessons arising from case work on Police misconduct.
- Scrutiny of sanctions for misconduct to ensure fairness and consistency.
- Lessons learned from the handling of complaints.
- The conduct of undercover officers.
- Payments to informants.
- Scrutiny of Essex Police commitment to equality and diversity.
- The operation of the vetting system.
- Determining conflicts of interest where police officers/staff have second jobs.
- Police officers who receive criminal convictions.
- Issues in relation to the appropriate use of force.
- The use of cautions and other out of court disposals.
- The abuse of authority and
- The Essex Police whistleblowing policy and conduct towards whistle-blowers.

15.4.8 The Sub-Committee shall agree a work programme at the beginning of each financial year setting out its proposed areas and themes of focus. This shall not prevent the sub-committee considering additional themes, but will enable forward planning and preparation for meetings.

15.4.9 The Sub Committee will meet a minimum of three times a year and will produce an annual report of its work within three months of the end of each financial year.

15.4.10 For the avoidance of doubt, the Sub Committee will have no decision making powers.

15.5.1 Independent Audit Committee

(1) The PCC and the Chief Constable, in accordance with The Financial Management Code of Practice (Schedule 4) have established a combined independent Audit Committee.

(2) The combined Audit Committee will consider the internal and external audit reports of both the PCC and the Chief Constable.

(3) The role of the Audit Committee is to advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements in accordance with proper practices.

(4) In setting up the Audit Committee, the PCC and the Chief Constable have had regard to the CIPFA Guidance on Audit Committees.[Audit Committees: Practical Guidance for Local Authorities, CIPFA, 2005]

(5) The terms of reference of the Audit Committee will be reviewed on an annual basis

(6) The PCC and the Chief Constable will be represented at meetings of the Audit Committee.

15.5.2 Membership

The Audit Committee will comprise three members appointed jointly by the PCC and the Chief Constable but who are independent of the PCC and the Chief Constable

15.5.3 Quorum

To be quorate the Committee requires the three Committee members to be present,

15.5.4 Terms of Reference:

Audit Activity

- (a) To consider the Head of internal audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the PCC's and Chief Constable's corporate governance arrangements.
- (b) To consider summaries of specific internal audit reports as requested.
- (c) To consider reports dealing with the management and performance of the providers of internal audit services.
- (d) To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- (e) To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- (f) To consider specific reports as agreed with the external auditor.
- (g) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (h) To liaise with the Audit Commission over the appointment of the PCC's external auditor.
- (i) To commission work from internal and external audit.

Regulatory Framework

- (j) To maintain an overview of the constitution in respect of contract procedures rules, financial regulations and codes of conduct and behaviour.
- (k) To review any issue referred to it by the PCC or Chief Constable.
- (l) To monitor the effective development and operation of risk management and corporate governance in the council.
- (m) To oversee the production of the PCC Statement on Internal Control and to recommend its adoption.
- (n) To monitor council policies on "Raising Concerns at Work" and the anti-fraud and corruption strategy and the PCC's complaints process.
- (o) To oversee the PCC's and Chief Constable's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

- (p) To consider the PCC's and Chief Constable's compliance with its own and other published standards and controls.

Accounts

- (q) To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the PCC or Chief Constable.
- (r) To consider the external auditor' report to those charged with governance on issues arising from the audit of accounts.

15.5 Meetings

The Audit Committee shall meet a minimum of four times per year and, generally, its meetings shall be held in public.

Article 16 - Community Safety Partnerships and Crime and Disorder Strategies

- (1) The PCC is not a 'responsible authority' under the Crime and Disorder Act 1998, and cannot be a member of Community Safety Partnerships but the legislation expects that the PCC and CSPs will cooperate to reduce crime, disorder and re-offending.
- (2) The PCC's Police and Crime Plan must have regard to the priorities of each CSP and the CSPs must have regard to the priorities established by the PCC in its Police and Crime plans.
- (3) The PCC has the power to make grants for the reduction of crime and disorder to any person/organisation it sees fit.
- (4) The PCC will have the ability to request a report from a CSP where it is deemed not to be meeting its requirements to reduce crime and disorder. The PCC will also have the ability to call the chairs of the CSPs to a meeting to discuss strategic priorities.

Article 17- Independent Custody Visitors for Places of Detention

- (1) The PCC must:
 - (a) make arrangements for detainees to be visited by persons appointed under the arrangements ("independent custody visitors"); and
 - (b) keep those arrangements under review and from time to time revise them as they think fit.

- (2) The PCC must ensure:
 - (a) that the arrangements made by it require independent custody visitors to prepare and submit to it a report of any visit made under the arrangements to a suspected terrorist detainee, and
 - (b) that a copy of any report submitted under paragraph (a) is given to the person appointed under section 36(1) of the Terrorism Act 2006 (independent reviewer of terrorism legislation).
- (2) The arrangements made by the PCC must secure that the persons appointed under the arrangements are independent of both:
 - (a) the PCC and
 - (b) the Chief Constable for Essex.
- (3) The arrangements may confer on independent custody visitors such powers as the PCC considers necessary to enable them to carry out their functions under the arrangements and may, in particular, confer on them powers:
 - (a) to require access to be given to each police station;
 - (b) to examine records relating to the detention of persons there;
 - (c) to meet detainees there for the purposes of a discussion about their treatment and conditions while detained; and
 - (d) to inspect the facilities there including in particular, cell accommodation, washing and toilet facilities and the facilities for the provision of food.
- (4) The arrangements may include provision for access to a detainee to be denied to independent custody visitors if:
 - (a) it appears to an officer of or above the rank of inspector that there are grounds for denying access at the time it is requested;
 - (b) the grounds are grounds specified for the purposes of paragraph (a) in the arrangements; and
 - (c) the procedural requirements imposed by the arrangements in relation to a denial of access are complied with.
- (5) Grounds shall not be specified in any arrangements for the purposes of Article 17 (4) (a) unless they are grounds for the time being set out for these purposes in any code of practice issued by the Secretary of State.
- (6) The Secretary of State shall issue, and may from time to time revise, a code of practice as to the carrying out by the PCC and independent custody visitors of their functions under the arrangements.
- (7) The PCC and independent custody visitors shall have regard to any code of practice for the time being in force in the carrying out of their functions

Schedule 1

**The Elected Local Policing Bodies (Specified
Information) Order 2011
[SI 2011/3050]**

Schedule 2

Information Sharing Agreement between Essex Police and the PCC

Schedule 3

**Information Sharing Agreement between the PCC and
the Police and Crime Panel for Essex**

Schedule 4

**Financial Management Code of Practice for the Police
Service of England and Wales
[January 2012 - Home Office]**

Schedule 5

Scheme of Delegation

Schedule 6

**Policing Protocol Order 2011
[SI 2011/2744]**

Schedule 7

Voluntary Code of Conduct

Appendix to Schedule 7

Register of Interests

Schedule 8

**The Elected Local Policing Bodies (Complaints and
Misconduct) Regulations 2012
[SI 2012/62]**

Schedule 9

**Appointment, Suspension and Removal of Chief
Constable
[Schedule 8 PRSRA 2012]**

Schedule 10

**Police and Crime Panels (Precepts and Chief
Constable Appointments) Regulations 2012
[SI 2012/2271]**

Schedule 11

**The Police and Crime Commissioner Elections
(Declaration of Acceptance of Office) Order 2012
[SI 2012/2553]**

Schedule 12

The Government Protective Marking System (GPMS)

Schedule 13

Financial Regulations and Contract Standing Orders

Schedule 14

Anti-Fraud and Corruption Strategy