

PFCC Decision Report

Report reference number: 008/22

Classification: Not protectively marked

Title of report: Review of the Police, Fire and Crime Commissioner's Constitution

Area of county / stakeholders affected: Countywide

Report by: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

Date of report: 14 January 2022

Enquiries to: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

1. Purpose of the report

The purpose of this report is to recommend an updated Constitution for adoption by the Commissioner.

2. Recommendations

That the Commissioner adopts the updated Constitution, attached at Appendix 1, including:

- The updated Terms of Reference agreed by the PFCC's Strategic Board at its meeting on 27 September 2021 (Appendix 1 to the Constitution);
- The updated Terms of Reference agreed by the Joint Audit Committee at its meeting on 17 December 2021 (Appendix 2 to the Constitution);
- The updated Terms of Reference agreed by the PFCC's Performance and Resources Board at its meeting on 29 July 2021 (and endorsed by the Strategic Board at its meeting on 27 September 2021) (Appendix 3 to the Constitution);
- The updated Terms of Reference agreed by the Essex Emergency Services Collaboration Strategic Governance Board at its meeting on 1 October 2021 (Appendix 4 to the Constitution);
- The updated Information Sharing Agreement between Essex Police and the Police, Fire and Crime Commissioner for Essex (Schedule 2 to the Constitution);
- The updated Scheme of Delegation and Consent (Schedule 5 to the Constitution), and
- The updated decision report template (Schedule 16 to the Constitution)

3. Benefits of the proposal

Adoption of the updated Constitution will ensure its continued compliance with legislation and regulations relevant to the Commissioner's activities with regard to policing.

4. Background and proposal

The Constitution is a key element of the Commissioner's governance framework. It is a comprehensive document governing how their statutory functions, duties and powers will be discharged and how decisions will be made. The Constitution also sets out (in Article 2) citizens' rights and responsibilities in relation to the Commissioner's activities, as well as the functions and powers of key associated bodies (such as the Police, Fire and Crime Panel and the Joint Audit Committee) along with their relationship to the Commissioner.

The Commissioner's Monitoring Officer is required to monitor and review the operation of the Constitution on an ongoing basis to ensure that its aims and principles are given full effect and that appropriate amendments are recommended as and when necessary for the purpose of updating or improving the Constitution. The Constitution was last subject to a fundamental review in 2018/19. As part of its regular cycle of review, it has now been subject to a further wholesale review to reflect the Commissioner's recent staffing restructure and to ensure its continued compliance with legislation and regulations relevant to the Commissioner's activities as regards policing. The Appendices and supporting Schedules to the Constitution have also been reviewed and refreshed as necessary. The Version History (as detailed on pages 3 and 4 of Appendix 1) summarises the key changes and additions made to the Constitution in consequence of the review.

The updated Constitution will be reviewed again in two years' time, or earlier should changes to legislation, regulations and / or statutory guidance pertaining to the activities of the Commissioner warrant this.

A separate Constitution governs the Commissioner's activities as Police, Fire and Crime Commissioner Fire and Rescue Authority. This document is due for review in spring 2022.

5. Alternative options considered and rejected

The Commissioner is obliged to have in place a Constitution, which the Monitoring Officer is obliged to maintain up to date. As such, there is no alternative but to submit the Constitution to regular review.

6. Police and Crime Plan

The Constitution is a key document governing the decision-making and activities of the Commissioner in pursuit of the objectives set out in the Police and Crime Plan as well as in other key strategic documents such as the Local Business Case for Joint Governance of Police and Fire and Rescue in Essex.

7. Police operational implications

The Chief Constable for Essex has been consulted on the proposed updated Constitution, both through his monthly Performance Meeting with the Commissioner and via the Commissioner's Strategic Board.

8. Financial implications

As part of the review of the Constitution, the Commissioner's Financial and Procurement Regulations have been reviewed and updated in consultation with the Chief Financial Officer to the Chief Constable. A principle change to the Regulations has been to incorporate the Seven Force Contract Standing Orders agreed by the seven forces of the eastern region through the Seven Force Strategic Procurement Governance Board and the Eastern Region Strategic Alliance Summit. The updated Financial and Procurement Regulations are in the process of being proposed for adoption by the Commissioner via decision report 178/21 and will replace Schedule 13 to the Constitution if and when approved.

9. Legal implications

The Constitution adopted in 2019 has been reviewed and updated to ensure its continued compliance with the legislative framework governing the Commissioner's activities. Amendments and additions have been made specifically to reflect the provisions of:

- The Police Regulations 2003, as amended by the Police (Amendment) Regulations 2006 and 2011, the Police (Amendment No. 4) Regulations 2012 and the Police (Amendment No. 2) Regulations 2016
- The Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007 and 2012
- The Anti-Social Behaviour, Crime and Policing Act 2014 and consequential amendments to the Police Act 1996 and Police Reform and Social Responsibility Act 2011
- The Police and Crime Commissioner (Disqualification) (Supplementary Provisions) Regulations 2012
- The Crime and Courts Act 2013
- The Police (Complaints and Misconduct) Regulations 2020
- The Elected Local Policing Bodies (Specified Information) (Amendment) Order 2021

10. Staffing implications

There are no staffing implications arising directly from this report.

11. Equality and Diversity implications

There are no equality and diversity implications arising directly from this report. The provisions of the Constitution ensure the Commissioner's continued compliance with the Public Sector Equality Duty.

12. Risks

The Constitution is a key element of the Commissioner's governance framework. Failure to have in place a robust and fit for purpose Constitution could give rise to insufficiently robust governance arrangements that do not meet legislative requirements and are consequently vulnerable to legal challenge. The Constitution has therefore been reviewed and updated as necessary to ensure its continued compliance with legislation and regulations relevant to the Commissioner.

13. Governance Boards

The updated Constitution has been considered and endorsed by the following governance boards:

- The PFCC's Senior Management Team (SMT) (24 August 2021)
- The PFCC's Corporate Management Team (9 September 2021)
- The PFCC's Strategic Board (27 September 2021)
- The Essex Police, Fire and Crime Panel (21 October 2021)

14. Background papers

Appendix 1 – Police, Fire and Crime Commissioner for Essex Constitution v12.12 (January 2022)

Report Approval

The report will be signed off by the PFCC Chief Executive and Chief Finance Officer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O.

Sign:



Print: P. Brent-Isherwood

Date: 17 January 2022

Chief Finance Officer

Sign: 

Print: Julia Berry

Date: 18 January 2022

Publication

Is the report for publication?

YES

NO

If 'NO', please give reasons for non-publication (Where relevant, cite the security classification of the document(s). State 'None' if applicable)

N/A

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

Redaction

If the report is for publication, is redaction required:

1. Of Decision Sheet?

YES

2. Of Appendix?

YES

NO

NO

If 'YES', please provide details of required redaction:

N/A

Date redaction carried out:

Treasurer / Chief Executive Sign Off – for Redactions only

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

Sign:

Print:

Chief Executive/Treasurer

Date signed:

Decision and Final Sign Off

I agree the recommendations to this report:

Sign: 

Print: Roger Hirst

PFCC

Date signed: 18 January 2022

I do not agree the recommendations to this report because:

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Sign:

Print:

PFCC/Deputy PFCC

Date signed: