

PFCC Decision Report

Report reference number: 138-23
Classification: Not protectively marked
Title of report: Review of the PFCC's Constitution
Area of county / stakeholders affected: Countywide; whole of Essex Police
Report by: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer) Chief Officer: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer) Date of report: 14 August 2023 Enquiries to: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

1. Executive Summary

The purpose of this report is to seek the Police, Fire and Crime Commissioner's (PFCC's) approval for the adoption and publication of their updated Constitution.

2. Recommendations

- That the PFCC approves for adoption and publication the updated Constitution attached at Appendix 1, and
- That, as part of the review of the Constitution, the PFCC approves the updated Financial and Procurement Regulations attached at Appendix 2.

3. Background to the 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 with regard 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) and 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 improving the Constitution. The Constitution was last subject to a fundamental review in 2021. As part of its regular cycle of review, it has now been subject to a further wholesale review to ensure its continued compliance with legislation and regulations relevant to the Commissioner's activities relating to policing. The Appendices and supporting Schedules to the Constitution have also been reviewed and refreshed as necessary. The Version History (please see pages 4-6 of Appendix 1) summarises the key changes and additions made to the Constitution as a result of this review.

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 2024.

4. Proposal and associated benefits

Fundamentally, the Constitution sets out how the PFCC's decision-making systems operate. Among other benefits, a robust and fit-for-purpose constitution:

- Creates the conditions in which decision-making is visible to and understood by the public. It allows decision-making to be consistent, accountable and transparent.
- Provides a framework within which the staff and officers of the PFCC and the Chief Constable can understand their own roles and responsibilities and those of others.
- Acts as a central repository of basic information relating to the key bodies and structures the PFCC works through and with, including their terms of reference.

5. Options analysis

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 a regular review.

6. Consultation and engagement

The updated Constitution attached at Appendix 1 has been consulted on with the PFCC's Senior Management Team, the Chief Constable and his Chief Officer team, and various subject matter experts (e.g. the Force Solicitor, PFCC's Data Protection Officer and Essex Police's Data Protection Compliance Manager). It has also been subject to review and endorsement by the Essex Police, Fire and Crime Panel.

7. Strategic links

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.

8. Police operational implications

As set out in section 6 above, the PFCC's Senior Management Team and the Chief Constable have been consulted on the updated Constitution. The PFCC's Data Protection Officer has also consulted with the force's Data Protection Compliance Manager with regard to the Information Sharing Agreement between Essex Police and the PFCC (Schedule 2 to the Constitution).

9. Financial implications

As part of the review of the Constitution, the Commissioner's Financial and Procurement Regulations have been reviewed and updated by the PFCC's Strategic Head of Performance and Resources (Chief Finance Officer) in consultation with the Chief Finance Officer to the Chief Constable and 7 Force Commercial. The updated Regulations are attached for approval at Appendix 2.

10. Legal implications

The Constitution adopted in 2021 has been reviewed and updated to ensure its continued compliance with the legislative framework governing the Commissioner's activities. Particular account has been taken of the following new or updated legislation and statutory guidance that has come into effect since the last review of the Constitution:

- Police, Crime, Sentencing and Courts Act 2022
- Elections Act 2022
- The Strategic Policing Requirement (updated February 2023)

The updated Constitution also reflects the content of guidance published by the Centre for Governance and Scrutiny in April 2023.

The Force Solicitor has been consulted on the proposed changes to the Constitution. His comments have been reflected and he has confirmed that he has no legal issues with the document attached as Appendix 1 to this report.

11. Staffing implications

There are no staffing implications arising directly from this report. The Constitution has been updated as appropriate to reflect changes in personnel since the last review.

12. 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.

13. Risks and mitigations

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.

14. Governance Boards

The Constitution has been reviewed and iterated through the following governance route:

- PFCC's Senior Management Team (SMT) (24 May 2023)

- Police, Fire and Crime Commissioner and Chief Constable Performance Meeting (2 June 2023)
- PFCC's Strategic Board (21 June 2023)
- Essex Police, Fire and Crime Panel (20 July 2023)

15. Links to Future Plans

The Constitution is scheduled for regular review biennially, or earlier should changes to legislation, regulations and / or statutory guidance pertaining to the activities of the Commissioner warrant this.

16. List of Background papers and Appendices

Background papers:

- Review of the PFCC's Constitution – Report to the PFCC's Strategic Board (21 June 2023)
- Review of the Police, Fire and Crime Commissioner's Constitution – Report to the Essex Police, Fire and Crime Panel (20 July 2023)

Appendices:

- Appendix 1 – Police, Fire and Crime Commissioner for Essex Constitution July 2023 (Version 12.17)
- Appendix 2 – Police, Fire and Crime Commissioner for Essex Financial and Procurement Regulations 2023 (incorporating the Seven Force Procurement Contract Standing Orders December 2021)

Report Approval

The report will be signed off by the OPFCC 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: 14 August 2023

Chief Finance Officer

Sign: 

Print: Janet Perry

Date: 22 August 2023

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)

None

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
NO

2. Of Appendix? YES
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: Jane Gardner

Deputy PFCC

Date signed: 22 August 2023

I do not agree the recommendations to this report because:

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Sign:

Print:

PFCC/Deputy PFCC