



## Scheme of Delegation

**March 2021**

Application	All Staff / Public
Policy Owner	Chief Executive & Monitoring Officer
Version	2
Last Review Date	01.03.2021
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Protective Marking	Official
Publication Scheme Y/N	Yes

## **SECTION 1: Overview of Scheme**

- 1.1 The purpose of this Scheme of Delegation is to describe the arrangement made by the Police, Crime and Victims' Commissioner for Durham (PCVC), and his/her statutory officers, enable the staff of the Office of the PCVC to effectively and efficiently carry out the functions and business delivery on behalf of the PCVC.
- 1.2 The PCVC's functions are set out in Section 1 of the Police Reform and Social Responsibility Act 2011 (the Act).
- 1.3 The statutory powers of the PCVC to arrange for others to exercise those functions are set out in S18 of the Act. In addition, by virtue of s14, Schedule 1 to the Act, the PCVC may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of those functions.
- 1.4 With the exceptions set out in this paragraph and in paragraphs 1.5 and 1.6 below, the PCVC may delegate functions to a Deputy PCVC, a member of the PCVC's staff or any other person. The PCVC cannot delegate their functions to:
- A constable;
  - The Mayor's Office for Policing and Crime;
  - The Deputy Mayor for Policing and Crime;
  - The Mayor of London;
  - The Common Council of the City of London;
  - Any body which maintains a police force; and,
  - A member of staff of the above.
- 1.5 The PCVC cannot delegate certain functions to anyone else. These functions are:
- Issuing the Police and Crime Plan;
  - Appointing, suspending, and requiring the Chief Constable to resign;
  - Calculating the council tax requirement.
- 1.6 The Act also specifies those functions which, if delegated, can only be delegated to a Deputy PCVC, namely:
- Determining police and crime objectives;
  - Attending the Police and Crime Panel (PCP); and,
  - Preparing an annual report to the PCP.
- 1.7 The PCVC has this framework in place to ensure the lawful and efficient discharge of the PCVC's duties, by providing for decision making to be carried out through the most appropriate structure and at the appropriate level.

## **2 SECTION 2: PRINCIPLES**

- 2.1 This Scheme of Delegation cannot supersede any legislative requirements. This intention of this Scheme is to support the effective and efficient management and delivery of the functions of the Office of the PCVC through the effective use of the PCVC's delegable powers.
- 2.2 As set out in the Act, this Scheme of Delegation applies in the same way to an Acting PCVC as if s/he was the PCVC, except where the PCVC's statutory powers are neither exercisable nor delegable at law by an Acting PCVC.
- 2.3 This Scheme of Delegation gives authority to individual post-holders within the office of the PCVC to make decisions in relation to specified matters. Unless matters are specifically reserved, or restricted by law, those persons may delegate a matter further, however any such delegation must be set out in writing and the post-holder identified in this scheme will always be the person held to account for any decision made.
- 2.4 This Scheme of Delegation does not mean that the PCVC will no longer exercise those duties he/she has delegated to others but enables those engaged on behalf of the PCVC to fulfil the objectives of the Police and Crime Plan set by the PCVC.
- 2.5 Throughout this scheme of delegation, the PCVC requires that officers will act within approved policies and strategies, and will take appropriate professional advice, particularly legal and financial advice, and where appropriate, operational advice from the Chief Constable. In addition, the PCVC requires officers to draw to his/her attention, and seek a view in respect of, any issues or decisions which are novel, contentious, or repercussive when exercising these delegated powers,
- 2.6 The PCVC expects that all officers exercising delegated powers will act within the expected standards of professional behaviour and ethical practices, with integrity and transparency.
- 2.7 No decision shall be taken on behalf of the PCVC by an officer of the PCVC (or Deputy PCVC – if appointed) unless they have the power to do so and as set out in this Scheme of Delegation. The PCVC's Chief Executive (or Deputy Monitoring Officer in his/her absence) is responsible for overall adherence of all OPCVC staff to this Scheme of Delegation.
- 2.8 The Scheme of Delegation is complementary to and should be read along with the Policing Protocol Order 2011, Financial Management Code of Practice, Financial Regulations, Contract Standing Orders and Standing Financial Instructions adopted by the PCVC. Officers exercising delegated powers must do so in accordance with these legal provisions, as well as the Scheme of Delegation provided to the Force.

- 2.9 Decisions taken under this scheme of delegation should be recorded and reported in accordance with the PCVC's legal duty to record and publish decisions. The PCVC's obligations are set out at law in the *Elected Local Policing Bodies (Specified Information) Order 2011*.
- 2.10 The PCVC is the legal contracting body who owns all the assets and liabilities, with the responsibility for the financial administration of his/her office and the force, including all borrowing limits. This delegation does not change the legal standing of the PCVC as the corporation sole but enables the statutory Chief Executive & Monitoring Officer to sign contracts on behalf of the PCVC where the PCVC has approved or made a decision to enter into a contract, or where they are temporarily absent.
- 2.11 The PCVC will receive all funding, including the government grant and precept, and other sources of income, related to policing. This delegation does not affect this.
- 2.12 The PCVC may ask that a specific matter is referred to him/her for a decision and not dealt with under powers of delegation. The allocation of powers pursuant to this delegation do not prevent a matter being referred to the PCVC for decision if the officer wishes or considers it appropriate.
- 2.13 When a professional officer is considering a matter that is within another professional officer's area of responsibility, they should consult the other professional officer before authorising the action.
- 2.14 This scheme takes account of primary functions and matters of business delivery affecting the OPCVC but does not list all matters which form part of everyday management responsibilities.
- 2.15 The relevant statutory officers and post-holders are set out at **Annex A**, which may from time to time be amended by the PCVC, in accordance with the appointments made (and, where applicable, approved by the Police and Crime Panel).

### SECTION 3: DEFINITIONS

- 3.1 In this document, the following specific expressions shall have the following meanings unless inconsistent with the context:

"PCVC" or "Commissioner" is the Acting or elected Police, Crime and Victims' Commissioner for Durham (unless the context clearly refers to a PCVC from another area). The legal title for legal purposes is *The Police and Crime Commissioner for Durham*.

"DPCVC" Deputy Police, Crime & Victims' Commissioner for Durham (unless the context clearly refers to a DPCVC from another area)

"Office of the PCVC or 'OPCVC'" The office of the PCVC including their staff and such resources that are specifically allocated to support the PCVC.

"PCVC's Staff" Persons employed by the PCVC not falling within the definition of "Police Staff"

"Police Staff" Persons working within the PCVC solely to assist the police force and under the direction of the Chief Constable.

“Chief Constable’s staff” Persons employed by the Chief Constable

“Chief Finance Officer” or “CFO” or “OPCVC CFO” or “Joint CFO” A person appointed by the PCVC under paragraph 6 of Schedule 1 to the Police Reform and Social Responsibility Act 2011, to be responsible for the proper administration of the PCVC’s financial affairs.

“Police Force Chief Finance Officer or ‘PF CFO’” A person appointed by the Chief Constable under paragraph 4 of Schedule 2 and paragraph 1 of Schedule 4 to the Police Reform and Social Responsibility Act 2011 to be responsible for the proper administration of the Chief Officer’s financial affairs.

“FMCP” Financial Management Code of Practice issued under s17 of the Police Reform and Social Responsibility Act 2011 and s39A of the Police Act 1996

“Chief Executive and Monitoring Officer” (CEMO) A person appointed under paragraph 6 of Schedule 1 to the Police Reform and Social Responsibility Act 2011 to be head of the PCVC’s staff.

“Monitoring Officer” (MO) is the person appointed to ensure that the activity and functions of the PCVC and his/her officers act in accordance with the Scheme of Delegation, the law and their legal obligations, including any codes of conduct, public policy or regulatory requirements. Unless otherwise specified at Annex A, the monitoring officer function is vested in the Chief Executive at law, or a member of the PCVC staff/Deputy Monitoring Officer (DMO) where the Chief Executive position is vacant.

“The Force” refers to Durham Constabulary, and officers and staff under the direction of the Chief Constable of Durham Constabulary.

“PRORA 2011” Police Reform and Social Responsibility Act 2011

“Chief Officer” An ACPO/ NPCC officer including non-police officers.

#### **SECTION 4: DELEGATIONS TO OFFICERS**

- 4.1 The person appointed as the Chief Executive (who will also be, as a matter of law, the Monitoring Officer) (CEMO) and the Chief Finance Officer (CFO) (s151 officer) have statutory powers and duties relating to their positions, and therefore do not rely solely on matters being delegated to them to carry these out.
- 4.2 The PCVC may appoint any officer to carry out any function, apart from those listed below (s.18(7) PRORA 2011):
- 4.3 The PCVC may appoint a deputy to exercise his/her functions (except those which cannot be delegated to the Deputy PCVC (see 1.5 and 1.6). The Deputy PCVC can delegate to the CEMO any functions (apart from those listed above) in his/her absence (absence should be defined as leave or illness).
- 4.4 The CEMO, CFO and staff of the PCVC are, by law, politically restricted roles (unless they transferred to the OPCVC following the cessation of Police Authorities). No delegation or requirement to act on behalf of the PCVC, either by operation of this Scheme of Delegation or otherwise, may require any member of staff to act in a way which contravenes this restriction.

## **SECTION 5: DELEGATIONS TO THE DEPUTY POLICE, CRIME & VICTIMS' COMMISSIONER (where appointed):**

- 5.1 The PCVC may appoint a deputy to exercise his/her functions except:
- issuing the Police and Crime Plan
  - appointment or removal of the Chief Constable
  - calculating the budget requirement
- 5.2 The Deputy PCVC (if appointed) can in turn arrange for a function to be further delegated, subject to the conditions set out in s18 of the PRSRA 2011.
- 5.3 The Deputy PCVC (if appointed) does not have the authority to act independently from the PCVC unless specifically delegated and as set out in a Scheme of Delegation in accordance with s18 of the PRSRA.
- 5.4 During any absence of the PCVC due to leave or sickness, the Deputy PCVC (if appointed) has authority to exercise the functions of the PCVC where it is considered that the matter be of such urgency as to require an early decision, subject to:
- Consultation with the PCVC (if practical), the CEMO and CFO.
  - Reporting to the PCVC upon his/her return.

## **SECTION 6: DELEGATIONS TO THE CHIEF EXECUTIVE & MONITORING OFFICER**

- 6.1 The CEMO is afforded broad delegations under the Act and this Scheme as set out below. However, they will be required to consult with the PCVC, CFO and where appropriate, with the Chief Constable.

### **EXPENDITURE AND COSTS MATTERS**

- 6.2 The CEMO is authorised to:
- 6.2.1 The CEMO is authorised to deal with all claims asserted against the PCVC and institute such proceedings or take such steps as he may consider necessary to secure the payment of any debt or enforce the performance of any delegation due to the PCVC and to take such steps as he may consider necessary to enforce any judgment obtained in any such proceedings.
- 6.2.1 The CEMO may sign on behalf of the PCVC any indemnity required to enable the PCVC or the Police to exercise any of their functions, provided that where the giving of an indemnity could have significant financial implications not covered by the PCVC's insurance policies, such indemnity shall be signed only with the approval of the PCVC's Chief Finance Officer.
- 6.2.2 Except as otherwise provided for in any of the applicable Standing Orders or Financial Regulations to sign, the CEMO is authorised to execute and issue all legal documents necessary to implement decisions made by the PCVC or officers acting under delegated powers.
- 6.2.3 In consultation with the PCVC's CFO, exercise responsibility for PCVC's expenditure, namely that part of the budget which is not provided to Durham Constabulary for service delivery, such

responsibility to be exercised in accordance with the financial regulations and the Standing Orders of the PCVC and the Financial Management Code of Practice.

6.2.4 Manage the budget, along with the PCVC's CFO, particularly to:

- order goods and services and spend on items provided for in the revenue budget.
- ask for and accept quotations and tenders for goods and services provided for the revenue budget.

### **COMPLAINT & CONDUCT MATTERS**

6.3 Under the terms of the Policing and Crime Act 2017 the Police, Crime & Victims' Commissioner is the Appropriate Authority for complaints made against the Chief Constable. There are decisions that must be made in relation to the complaints process.

6.4 In addition, the PCVC also has responsibility to undertake reviews of complaints relating to less serious matters, concerning officers below the rank of Chief Constable where the complaint has not been resolved to the satisfaction of the complainant and they have exercised their right of appeal. In accordance with the Policing and Crime Act 2017, section 23, the PCVC can delegate any of the functions of the Local Policing Body contained within the Act.

6.5 These decision-making powers are delegated by the PCVC to the CEMO. The CEMO may further delegate these to the Deputy Monitoring Officer, along with an agreed process for their discharge to ensure the timely and effective management of these processes. A summary of these decisions is:

- Logging, conducting an initial assessment of, and recording complaints under Police Conduct Regulations 2020;
- Decisions about how to handle a complaint and/ or conduct matter raised in respect of the Chief Constable;
- Referral to and liaison with the Independent Office for Police Complaints (IOPC);
- Referral to the Crown Prosecution Service;
- Appointment of a person to handle the matter;
- Responsibility to provide the complainant with regular updates;
- Carrying out severity assessments;
- Determinations of a complaint, including suitability for local resolution;
- Making Review Recommendations;
- Appointment of misconduct hearing or meeting members (and related determinations);
- Make the PCVC's representations (or the decision not to make representations) to misconduct proceedings in accordance with regulation 35(10) of the Police Conduct Regulations 2020; and,
- Any other process related matter in relation to officer conduct unless excluded by Regulations and the Police Reform Act 2002 and Police Conduct Regulations 2020.

See **Annex A** for information on the complaints process, including statutory reviews of police complaints.

### **LEGAL MATTERS**

- 6.6 In respect of legal matters and proceedings against the PCVC, the CEMO may (unless specifically reserved by the PCVC):
- 6.6.1 sign all contracts on behalf of the PCVC (and DPCVC if appointed) in accordance with any decisions either has lawfully made.
  - 6.6.2 authorise people to make, defend, withdraw, or settle any claims or legal proceedings on the PCVC's behalf, in consultation with Evolve Legal Services (and CFO if there is significant financial implications).
  - 6.6.3 obtain legal or other expert advice and appoint legal professionals whenever this is considered to be in the PCVC's best interests and for his/her benefit.
  - 6.6.4 make arrangements to institute, defend, or participate in any legal proceedings in any case where such action is necessary.

### **EMPLOYER MATTERS**

- 6.7 In relation to staff employed by the PCVC and not under the direction or control of the Chief Constable, the CEMO, who is also, by law, the Head of Paid Service, may:
- 6.7.1 Appoint, dismiss, and deal with associate processes;
  - 6.7.2 Set staff terms and conditions of service;
  - 6.7.3 Management of staffing resources and deal with staffing issues that may arise.
- 6.8 To properly manage the office of the PCVC, all the powers of employer of staff, including engagement and dismissal, consideration of appeals, in respect of discipline, capability, grievance and grading will be exercised by the PCVC or CEMO.
- 6.9 As the need arises, the CEMO will agree written arrangements for any further delegation and line management arrangements in respect of such Police Staff as may be for any reason under the supervision of the PCVC or a member of PCVC's Staff.

### **SECTION 7: DELEGATIONS TO THE FORCE**

- 7.1 Section 18 of the Police Reform & Social Responsibility Act 2011 prohibits the PCVC from delegating his/her functions to the Chief Constable (or any constable) or to staff of a constable.
- 7.2 The Home Office Financial Management Code of Practice recommends that, to help ensure the effective delivery of policing services and to enable the CC to have impartial direction and control of all constables and staff within their force, the CC should have day to day responsibility for the financial management of the force. This is agreed and will operate within the framework of agreed budget allocations and levels of authorisation issued by the PCVC, as outlined and detailed in Financial Regulations and Scheme of



Delegation (other than this delegation) from time to time in place and which will take primacy over any provision within these delegations.

## **SECTION 8: DELEGATIONS TO THE PCVC AND CFO**

- 8.1 The CFO is the financial adviser to the PCVC and has statutory responsibility to manage his/her financial affairs as set out in sections 112 and 114 of the Local Government Finance Act 1988, and the Accounts and Audit Regulations 2003 (as amended).
- 8.2 The CFO must ensure that the financial affairs of the PCVC, and the force, are properly administered having regard to their probity, legality, and appropriate standards. The CFO is/are responsible for the proper administration of the PCVC's financial affairs for the purposes of s151 Local Government Act 1972. The PCVC's Financial Regulations authorise the CFO and CEMO to take various expenditure and other financial decisions on behalf of the PCVC.
- 8.3 Delegations to the force CFO are by virtue of the Financial Regulations and Scheme of Delegation.
- 8.4 This delegation does not provide permanent authority or delegation by the PCVC who may amend, review, or rescind any or all the above delegations where it is lawful so to do.

## **SECTION 9: SPECIFIC DELEGATIONS BY THE PCVC, CEMO, DPCVC, CFO.**

- 9.1 See **Annex B** for specific delegation and post-holders.

## **Section 10: URGENCY POWERS**

- 10.1 Where a matter which is not delegated to any officer under this scheme requires a decision that cannot wait for the attention of the PCVC or Deputy PCVC (to whomever power is reserved), and only in such circumstances, the CEMO and/or PCVC's CFO may take the necessary decision provided that the provisions of 10.2 and 10.4 are complied with.
- 10.2 Before taking a decision under 10.1 the CEMO and/or CFO shall consult each other and the Chief Constable (except in relation to matters which would otherwise be determined by the PCVC without reference to the Chief Constable).
- 10.3 Every effort must be made to discuss the proposed decision with the PCVC or his/her Deputy using the most appropriate means of communication.
- 10.4 Urgent decisions taken under delegated authority in accordance with these provisions must be reported to the PCVC and published in the manner normally used for decisions of the PCVC.

## **ANNEX A: COMPLAINTS PROCESS**

### **Internal process**

1. The Office of the Police, Fire and Crime Commissioner has an internal process that describes how these delegated responsibilities are administered and discharged. This is articulated in the table below.

### **Terminology and Explanation**

2. The following provides a brief explanation of the requirements of each of the decisions or activities above

#### **Recording Complaints**

3. There is a requirement to decide about whether a submitted complaint relates to the Chief Constable themselves and if so, whether it requires to be informally logged or recorded under Schedule 3 of The Police Reform Act 2012.

#### **Referral to the Independent Office for Police Complaints**

4. All complaints relating to the conduct of a Chief Constable that could, if proven amount to misconduct (written warning / final written warning / reduction in rank / dismissal), or justify the bringing of criminal proceedings, should be referred to the IOPC as soon as is reasonably practicable.

#### **Decisions about how to handle a complaint against the Chief Constable**

5. The IOPC Statutory Guidance 2020 sets out that a complaint must be investigated if the appropriate authority determines that the conduct complained about could justify the bringing of disciplinary or misconduct proceedings.

#### **Appointment of a person to handle the matter**

6. The IOPC Statutory Guidance 2020 sets out a requirement for the appropriate authority to appoint a person to handle the matter.

#### **Responsibility to provide the complainant with regular updates**

7. The IOPC Statutory Guidance 2020 sets out a requirement for the appropriate authority to provide the complainant with regular updates.

#### **Carrying out severity assessments**

8. The IOPC Statutory Guidance 2020 sets out the complaints assessed as being so serious that, if proven, the bringing of criminal or misconduct proceedings could be justified, a severity assessment should be carried out. This will determine whether, according to the information available, the conduct would amount to misconduct or gross misconduct.

#### **Determinations of a complaint**

9. According to the IOPC Statutory Guidance 2020, the outcome of a complaint should include a determination of whether:
  - The service provided by the police was acceptable;

- The service provided by the police was not acceptable; or,
- The complaint has been examined but the evidence is inconclusive and thus it has not been possible to determine if the service provided was acceptable.

10. If the complaint was subject to special procedures, the outcome of the complaint should also include a determination regarding whether the matter should be referred to:

- Reflective Practice Review Process
- Unsatisfactory Performance Procedures
- Misconduct Proceedings
- Criminal Proceedings

#### **Making Review Recommendations**

11. As the relevant review body for less serious complaints the PCVC is responsible for conducting complaint reviews and making recommendations to the Force.

## **ANNEX B: SPECIFIC DELEGATIONS**

1. The PCVC has in place a framework for the lawful and efficient discharge of the PCVC's duties by providing for decision making to be carried out through the most appropriate structure and at the appropriate level. A Police and Crime Commissioner must appoint a person to act as Chief Executive, or a Chief Finance Officer, if and for as long as that post is vacant, or the holder of that post is, in the commissioner's opinion, unable to carry out the duties of that post.
2. A reference in any enactment to the chief executive, or chief finance officer, of a police and crime commissioner includes a reference to a person acting as chief executive, or chief finance officer, in accordance with sub-paragraph.
3. This Annex to the Scheme of Delegation does not supersede or replace the provisions of the comprehensive Scheme of Delegation already in place between the PCVC and the Force. This delegation is intended to support the effective management and delivery of the office of the PCVC and the effective use of the PCVCs delegable powers.
4. This Scheme of Delegation gives authority to individual post-holders within the office of the PCVC to make decisions in relation to all matters. Unless matters are specifically reserved, or restricted by law, those persons may delegate a matter further, however, any such delegation must be set out in writing and the post-holder identified in this scheme will always be the person held to account for any decision made.
5. The relevant statutory officers and post-holders are set out below and these may from time to time be amended by the PCVC, in accordance with appointments made (and, where applicable, those confirmed by the Police and Crime Panel).

Statutory Officer	Delegation/Statutory Function	Substantive Postholder
CFO	CFO/s.151 Officer. All delegable powers under the PRSRA 2011, as set out in the Scheme of Delegation.	Gary Ridley
CEMO	Head of Paid Service and Monitoring Officer. All delegable powers under the PRSRA 2011, as set out in the Scheme of Delegation.	Stephen White
Deputy Monitoring Officer	Non-statutory	Sweety Sahani
Deputy Head of Paid Service	Non-statutory	Jeanne Trotter
Deputy Chief Finance Officer	Non-statutory	Charles Oakley

**SPECIFIC DELEGATIONS**

<b>Delegation</b>	
Signed by:	Date:

<b>Delegation</b>	
Signed by:	Date: