

## **DEVON AND CORNWALL POLICE AUTHORITY SCHEME OF DELEGATIONS - INDIVIDUALS**

### **Introduction**

The provisions of Section 101 of the Local Government Act 1972 (as amended) enable the Police Authority to delegate powers to committees and officers. The Police & Justice Act 2006 (Part 1 Section 3) provisions enable the Police Authority to delegate functions to Members

The scheme of delegation is intended to ensure the efficient discharge of the Police Authority's business by allowing for decisions to be taken at the appropriate level. Effectively this allows the Chief Constable to carry out his/her day to day responsibilities for operational policing matters and the Police Authority to carry out its legal functions and deal with matters at a strategic level.

In delegating responsibility to the Chief Constable in relation to personnel, financial and property matters the Authority expects him/her to act within any approved strategies and policies and to seek professional advice as and when necessary. The same provisions apply to the Authority's Members and Officers.

The Scheme of Delegation is complementary to the Authority's Procedure Rules , Financial Regulations and Standing Orders for Tenders and Contracts and individuals exercising delegated powers should do so in accordance with their provisions.

The Authority expects to be made aware of sensitive issues or any matter which may have significant financial implications. The delegation of powers to post holders under this scheme does not prevent a post holder from referring the matter to the Authority or a Committee for decision if they wish or consider it appropriate. The Authority, and any Committee with the relevant terms of reference, may require that a specific matter be referred to it for a decision and not dealt with under delegated powers.

In particular the Authority will expect its officers to draw its attention to sensitive issues or any matter which may have significant financial implications.

All decisions taken under delegated powers shall be properly documented and available for inspection by any Member of the Authority and available to the public where the information is not classified as exempt from legislation such as Freedom of Information.

References in this document to the Chief Constable, Chief Executive or Treasurer shall include such other officers as may be authorised by them to act on their behalf.

The Chief Constable shall be responsible for ensuring that the provisions and obligations of the Scheme of Delegation are properly drawn to the attention of members of staff under his/her direction and control.

### Definitions

Within this Scheme the following specific terms shall have the meanings as shown: -

Police Authority/the Authority	Devon and Cornwall Police Authority
Chief Constable	The designated Chief Constable or in his absence the Deputy Chief Constable or an Assistant Chief Constable designated by the Chief Constable after consulting the Authority.
Police Authority Staff	Persons employed by the Authority not falling within the definition of police staff
Police Staff	Persons employed by the Authority solely to assist the police force within the meaning of Section 15 of the Police Act 1996 (as amended)
Chief Officers	All ACPO officers and Force Directors that are members of the Chief Officer Group.
Treasurer	The officer with responsibility for the proper administration of the Authority's financial affairs for the purposes of S151 of the Local Government Act 1972
Monitoring Officer	The officer appointed under Section 5(1) of the Local Government and Housing Act 1989

### **Section 1 Delegations To The Chief Executive**

- 1.1. To carry out the duties of the Monitoring Officer for the purposes of S5 of the Local Government and Housing Act 1989 and to seek Counsel's opinion or other expert advice when this is considered to be in the interest and to the benefit of the Authority.
- 1.2. To act as "Proper Officer" to deal with various administrative matters involving the Authority except where those functions are delegated to others e.g. Treasurer ( for an indicative list of duties please see Annex1)
- 1.3. To act as the Authority's Money Laundering Reporting Officer under the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003.
- 1.4. To sign, execute and issue all legal documents necessary to implement decisions taken by the Authority, its committees or officers acting under delegated powers subject to appropriate advice from the Force Director of Legal Services or other appropriate legal advisor. Where the Common Seal of the Authority is affixed to any document it shall be in the presence of and attested by the Chief Executive, or such other officer authorised by him/her, and an entry of every sealing of a document shall be made and consecutively numbered in a book kept for that purpose and shall be authenticated by the person who has attested the seal.
- 1.5. Subject to paragraph 3.17 below and after consultation if appropriate with the Chief Constable or Treasurer to deal with all claims against the Authority and to institute such proceedings or take such steps as he/she may consider necessary to secure

the payment of any debt to the Authority and to take any steps he/she may consider necessary to enforce any judgement obtained in any such proceedings.

- 1.6. To sign on behalf of the Authority any indemnity required to enable the Authority or the Police to exercise any of their functions, provided that where the giving of the indemnity could have significant financial implications not covered by the Authority's insurance policies such indemnity shall only be signed with the approval of the Treasurer.
- 1.7. To make appointments to Police Appeals Tribunals in consultation with the Chairman of the Authority.
- 1.8. To make appointments to external and partnership bodies in consultation with the Chairman of the Authority.
- 1.9. To approve the attendance of Members at Conference, seminars and training courses
- 1.10. To authorise payments of Members' expenses and allowances in accordance with the Authority's approved scheme and to vary such allowances from time to time in accordance with the provisions of the Scheme or after any independent review of such a Scheme.
- 1.11. To annually review the rate of mileage reimbursed to Members under the members' allowances scheme and change the rate following consultation with the Authority Chair and the Treasurer if there has been a significant change in fuel costs since the previous review. (Members Allowances & Reimbursements Scheme para 6.1)
- 1.12. To arrange for views, submitted in writing, by Members unable to attend a committee meeting to be reported to the Committee. (See also Constitution 6.2)
- 1.13. To take responsibility for the Authority's budget (that part not delegated to the Chief Constable) in accordance with Financial Regulations and Standing Orders Relating To Contracts
- 1.14. In the absence of the Treasurer to seek appropriate financial advice and take any decisions usually delegated to the Treasurer
- 1.15. After consultation with the Chairman to determine sums to be paid from the Police Property Fund towards charitable purposes.
- 1.16. To provide the Independent Police Complaints Commission (IPCC) with all such information and documents held by the Authority as may be required by them for the purposes of the carrying out of any of its functions
- 1.17. To determine, in relation to complaints made about officers of at least the rank of ACPO rank and Police Staff at Director level:

- Whether or not the Authority is the appropriate authority to consider and record the complaint (such determinations to be made in accordance with legislative provisions and statutory guidance).

If a complaint is recorded:

- To undertake a severity assessment
  - Whether or not to refer the complaint to the IPCC
  - To appoint an Investigating Officer
  - To agree Terms of Reference for an Investigation
  - To serve the appropriate notices to officers who are the subject of an investigation
  - To agree the investigation plan
- 1.18. To organise the following matters in relation to custody visitors:
- To appoint custody visitors following satisfactory interview, training and police checks;
    - To remove custody visitors not making the minimum number of visits required or when failing to comply with the Authority's guidelines and procedures;
    - To approve the attendance of custody visitors at national or regional conferences on custody visiting and the consequent payment of travelling and subsistence expenses.
    - To vary the payment of expenses to custody visitors..
- 1.19. To approve the payment of legal expenses for Police Officers in consultation with the Chairman and subject to a recommendation from the Force Director of Legal Services.
- 1.20. To consider and approve or decline requests for Police Officers and Police Staff to provide assistance to an international organisation, institution or a police body outside the UK.
- 1.21. To give notice to the public of the time and place of formal meetings of the Authority (Police Authority Constitution 5.7)
- 1.22. To arrange for the Police Authority's Constitution to be published in accordance with the Constitution (Police Authority Constitution 9.3)
- 1.23. To appoint, manage and dismiss staff employed by the Authority who are not under the direction and control of the Chief Constable; to make recommendations to the Human Resources Committee relating to their Terms and Conditions of Service.
- 1.24. After consultation with the Chairman, to determine requests for financial assistance with exceptional vet's bills for retired police dogs.
- 1.25. To perform various delegations for specific functions as determined by the Police Authority from time to time.
- 1.26. To deal with routine matters of urgency.

## **Section 2 Delegations To The Treasurer**

2.1 To act as “Proper Officer” and carry out all of the duties of the officer designated by the Authority for the purposes of S151 of the Local Government Act 1972.

2.2 To be responsible for the administration of the Authority’s financial affairs as set out in Sections 112 & 114 of the Local Government Finance Act 1988 and the Accounts and Audit Regulations 2003. Taken together these mean that the Treasurer is responsible for:

- Ensuring that the financial affairs of the Authority and of the Force are properly administered and that the Financial Regulations are observed and kept up to date
- Reporting to the Authority and to the external auditor any unlawful or potentially unlawful expenditure by Members or Officers of the Authority or the Force
- Report to the Authority and to the external auditor when it appears that expenditure is likely to exceed the resources available to meet that expenditure
- Producing a statement of accounts
- Maintaining an adequate and effective internal audit function.

2.3 To be the Authority’s professional advisor on financial matters, the duties being to:

- Provide financial advice to the Authority on all aspects of its activity including the strategic planning and policy making process
- Assist the Authority in seeking to obtain the best value for money
- Advise the Authority on financial propriety
- Ensure that accurate, complete and timely financial management information is provided to the Authority and the Chief Constable
- Provide assistance in providing safe and efficient financial arrangements
- Advise in consultation with the Chief Executive and the Chief Constable on the safeguarding of assets, including risk management and insurance
- Arrange for the determination and issue of the precept
- Advise on budgetary matters including any consequent long-term implications.

2.4 To implement and monitor the Treasury Management Policy Statement.

2.5 To be responsible for the investment of the Authority’s money and the borrowing of money as necessary in accordance with the Treasury Management Strategy including authority to make investment decisions with regard to the Devon and Cornwall Investment Fund. The Treasurer may arrange for the Chief Constable to undertake day to day cash management activities or he/she may procure these activities from an appropriate source.

2.6 Where member approval is not possible and in extremis to authorise payments without prior approval, irrespective of whether or not provision has been made in the revenue budget, in relation to:

- payments required by statute;
- payments ordered by a court;
- payments due under any agreement entered into by or on behalf of the Authority.

Any decisions taken under this provision must be reported to the next scheduled meeting of the Authority.

- 2.7 To be responsible for all banking arrangements together with the creation, closure or authorisations of any account.
- 2.8 To decide in consultation with the Chair of Human Resources Committee and the Police Authority's Human Resources Adviser any enhancements or applications of discretion within the Local Government Pension scheme.
- 2.9 To decide in consultation with the Chair of Human Resources Committee and the Police Authority's Human Resources Adviser any redundancy of Police Staff and any consequential redundancy payments.
- 2.10 To decide in consultation with the Chair and Vice Chair of Resources any liability claims with any claims against the Force above the threshold set out in Financial Regulations.
- 2.11 To manage the internal audit function of the Police Authority and to report all matters of concern arising from internal audit activity to the Corporate Governance Committee or the Police Authority as appropriate.
- 2.12 Various delegations for specific functions as determined by the Police Authority from time to time.
- 2.13 In consultation with the Chair of Human Resources Committee and the Police Authority's Human Resources Adviser to make any decisions with regard to the enhancements or applications of discretion listed below
  - Early payment of pension benefits at the request of a member of the Scheme
  - Flexible retirement
  - The establishment of Shared Cost AVC scheme
  - Increase membership of an active member of the Scheme up to 10 years
  - Award of additional pension up to £5,000 per annum.

### **Section 3 Delegations To The Chief Constable**

#### Personnel Matters

- 3.1 In accordance with the provisions of S15 of the Police Act 1996 (as amended) to exercise all of the powers as employer of Police Staff, including matters in respect of discipline, grievance and grading. (In relation to directly employed Police Authority staff the Chief Executive shall exercise all such powers and in relation to the Chief Executive the Authority will exercise such powers through the Human Resources Committee)
- 3.2 To adjust the Police Staff establishment both in numbers and gradings within the overall workforce budget approved by the Authority.

- 3.3 To determine the operational profile of officers within the overall establishments approved by the Police Authority. Permanent variations to the establishment for police officers must be agreed with the Police Authority.
- 3.4 To appoint Police Staff excluding posts at Chief Officer level.
- 3.5 To implement national agreements on salaries and wages and conditions on the clear understanding that any issues which are sensitive or have major financial implications shall come before the Authority for decision.
- 3.6 To determine all issues relating to the terms and conditions of Police Staff in accordance with the law and any policies or procedures adopted by either the Devon and Cornwall Constabulary or the Police Authority.
- 3.7 To determine ex-gratia payments in respect of loss or damage to employee's personal property up to the limit set out in Financial Regulations. All other ex gratia payments to be referred to the Police Authority Treasurer for approval.
- 3.8 To determine all matters relating to police pensions (including widows' pensions) with the exception of:
- retirement on ill health grounds of all officers, these will be determined by the Police Pensions Regulations Sub Committee which is a sub-committee of the Human Resources Committee
  - decisions under Regulation K5 of the Police Pensions Regulations 1987 relating to the forfeiture of pensions upon commission of certain criminal offences.
- 3.9 To determine the following matters in relation to injury awards:
- decide to refer the process to the Selected Medical Practitioner (SMP)
  - decide to retain an officer where the SMP confirms the officer is not permanently disabled and both the management and the officer agree the retention period is appropriate
  - to decide the appropriate review period for injury awards
  - decide whether there is a cognisant reason why an injury award should not be reduced to the lowest band upon the pensioner reaching the age of 65.
- 3.10 To exercise employer discretions under the Local Government Pensions Scheme, except in case of the following discretions:
- Early payment of pension benefits at the request of a member of the Scheme
  - Flexible retirement
  - The establishment of Shared Cost AVC scheme
  - Increase membership of an active member of the Scheme up to 10 years
  - Award of additional pension up to £5,000 per annum
- Any decisions with regard to the enhancements or applications of discretion listed above will be referred to the Treasurer in consultation with the Chair of Human Resources Committee and the Police Authority's Human Resources Adviser.
- 3.11 To approve payments under any Authority approved bonus; performance related payments schemes and honoraria payments in recognition of additional duties and responsibilities or similar payments, with the exception of, payments in relation to the

ACPO and other Chief Officers PDR/Bonus Scheme, which shall be reserved to the Authority.

- 3.12 To determine whether or not advances of remuneration paid to deceased employees should be reclaimed or forgone.

#### Property Matters

3.13 To exercise all powers, rights and duties in respect of real and personal property in the ownership of the Authority, save that the Authority reserves to itself the right to buy and sell real property. These powers shall be exercised within the overall policies and strategies as agreed by the Authority. No capital expenditure shall be incurred unless the Authority has approved the scheme. Any property transaction that does not fall under the strategy outlined for the year shall be subject to prior approval by the Resources Committee.

3.14 Notwithstanding paragraph 3.13 above, after consultation with the Chief Executive and Treasurer to enter into short-term leases for land and buildings in circumstances where:

- a new lease is taken for a period of not more than 3 years and there are no implications for capital financing
- an existing lease needs to be extended for a period up to 3 years and there are no implications for capital financing.

3.15 To dispose of surplus land, buildings, vehicles and items of equipment according to the Authority's strategy and up to the limits as set out in the Financial Regulations; any disposal above this value is to be approved by the Resources Committee. All transactions are to be in accordance with the procedures set out within Financial Regulations.

#### Financial Matters

3.16 To exercise responsibility for Force expenditure (other than the part of the budget retained by the Authority for its own purposes) provided that such responsibility shall be exercised in accordance with the law and with the Authority's Financial Regulations and Standing Orders for Tenders and Contracts.

3.17 To deal with all matters relating to:

- all claims against the office of Chief Constable
- all claims against the Authority arising out of alleged acts or omissions in relation to Police Officers and Police Staff

provided that advice will be sought from the Director of Legal Services and if appropriate he/she will represent either the Chief Constable or the Authority, or both as the case may be and subject to any conflicts of interest arising between the Constabulary and the Authority in which case the Authority will seek independent legal advice.

3.18 To approve the making of payments in settlement of claims referred to in paragraph 3.17 above subject to the limits set out in financial regulations and the provisos of paragraph 3.17. Any claim above the limit set out in Financial Regulations is to be approved by the Treasurer in consultation with the Chair and Vice Chair of Resources.

- 3.19 To approve the writing off of any debt due to the Authority up to the limit set out in the Police Authority Financial Regulations. Any debt in excess of the limit to be referred to the Resources Committee for approval.
- 3.20 To accept income and offers of hospitality on behalf of the Authority provided that decisions taken are in accordance with any relevant Authority policies.
- 3.21 To accept on behalf of the Authority any lawful grant made to the Authority for police purposes.

#### **Section 4 Delegations To The Chairman Of The Authority**

- 4.1 To determine, in consultation with the Chief Executive, the membership of individual committees, working groups and task and finish groups (Police Authority constitution 5.44)
- 4.2 To appoint, in consultation with the Chief Executive, Lead Members and allocate the specific scope of work.
- 4.3 To rule on the interpretation or application of the Police Authority's constitution at any meeting of the Authority. (Police Authority Constitution 9.2)
- 4.4 To be the Authority's representative to the South West Region Police Authorities Joint Committee (PAJC) (together with the Authority Vice-Chairman) (Police Authority minute P/2388 11 December 2009)

**Note:** the following is taken from the PAJC Agreement:

*"Members of PAJC are empowered to ratify proposals relating to the provision of joint services or facilities where such services or facilities may be provided under the Local Government Act 1972 or where the approval of the Police Authorities to the provision of such services or facilities is required under section 23 of the Police Act 1996, where these have been included in the approved South West Annual Business Plan.*

*Voting shall proceed on a simple majority basis provided that the principle of majority voting applying to any Police Authority will only apply in relation to proposals which have been included in Appendix 1 - Proposals with a Detailed Business Case - of the relevant South West Annual Business Plan, and where such proposals have been approved by the relevant full Police Authority without any reservation."*

#### **Section 5 Delegations to the Vice-Chairman of the Authority**

- 5.1 To be the Authority's representative to the South West Region Police Authorities Joint Committee (PAJC) (together with the Authority's Chairman) (Police Authority minute P/2388 11 December 2009)

**Note:** the following is taken from the PAJC Agreement:

*“Members of PAJC are empowered to ratify proposals relating to the provision of joint services or facilities where such services or facilities may be provided under the Local Government Act 1972 or where the approval of the Police Authorities to the provision of such services or facilities is required under section 23 of the Police Act 1996, where these have been included in the approved South West Annual Business Plan.*

*Voting shall proceed on a simple majority basis provided that the principle of majority voting applying to any Police Authority will only apply in relation to proposals which have been included in Appendix 1 - Proposals with a Detailed Business Case - of the relevant South West Annual Business Plan, and where such proposals have been approved by the relevant full Police Authority without any reservation.”*

## **Section 6**

### **Delegations To Authority Committee Chairmen**

- 6.1 To decide, following consultation with the Chief Executive or the appropriate lead officer whether or not to accede to a Members’ request for an item to be included on the agenda (Terms of Reference and Delegated Powers Police Authority and Committees No 11)
- 6.2 To arrange for views, submitted in writing, by Members unable to attend a committee meeting to be reported to the Committee. (See also delegations to the Chief Executive).

## Indicative List of “Proper Officer” Functions

**Local Government Act 1972****Section 100B (2) and (6)**

Proper Officer for the purposes of determining whether any reports or parts thereof for a meeting of the Authority, should be excluded from those made available for public inspection in advance of the meeting, and made available for the use of members of the public present at the meeting, on the grounds that they relate to items during which the meeting is likely not to be open to the public.

**Section 100B (2) and (7) (c)**

Proper Officer for determining (i) whether any reports or parts thereof should be excluded from those supplied in accordance with a request from any newspaper on the grounds that they relate to items during which the meeting is likely not to be open to the public, and (ii) whether copies of any other documents should be supplied.

**Section 100 C (2)**

Proper Officer responsible for the preparation of a written summary of proceedings as required by Section 100 C(2).

**Section 100 D (1) (a)**

Compilation of lists of background papers to reports.

**Section 100D (5) (a)**

Identification of background papers to reports.

**Section 100 F (2)**

Proper Officer responsible for determining which documents are not available for inspection by members of the Authority by reason that they disclose exempt information.

**Section 115**

Proper Officer responsible for receipt of money due from officers.

**Section 229**

Proper Officer responsible for the certification of documents under Subsection (5).

**Section 234**

Proper Officer for the purposes of signing any notice, order or other document which the Authority are authorised or required by or under any enactment to give make or issue.

**Schedule 12**

(Meetings and proceedings of local authorities)

Proper Officer for the purposes of signing the summons issued to a member to attend meetings of the Authority and to receive notices from a member regarding the address to which a summons to attend a meeting is to be sent.

**The Local Government Act 1974 - Section 30**

Proper Officer responsible for arrangements for giving public notice of reports issued by the Local Government Ombudsman.

