



# Devon & Cornwall Police Authority

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# Constitution

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## Document Amendment Record

Item amended	Appendix ref	Amendment detail	Date of amendment	Issue number	Meeting amendment approved	Minute number
Members Allowances	H	Update to committee's whose Chairs receive an enhanced remuneration following revised structure	11.12.2010	1	Police Authority	P/2473
Constitution	N/A	Public questions added to Article 3	24.06.2011	2	Police Authority	24
Appendix I	I	Addition of new appendix 'Protocol for Questions from the Public at Full Authority Meetings'	24.06.2011	2	Police Authority	24
Scheme of Delegations	C	Revised Scheme of Delegations approved. Replaced old for new.	02.09.2011	3	Police Authority	41
Committee Terms of Reference	D	Addition to Professional standards and Complaints Committee TORs re pension forfeiture	02.09.2011	3	Police Authority	41
Committee Terms of Reference	D	Addition to special notes of HR TORs re appeal memberships	02.09.2011	3	Police Authority	41
Committee Terms of Reference	D	Addition to special notes of Professional Standards and Complaints TORs re conflict of interests in appeal memberships	02.09.2011	3	Police Authority	41
Committee Terms of Reference	D	Amendment to purpose /scope of Professional Standards TORs re complaints and FOI	02.09.2011	3	Police Authority	41
Committee Terms of Reference	D	Addition to SPCC TORs re delegations to committees.	02.09.2011	3	Police Authority	41
Constitution and Committee Terms of Reference	D	Amendment to Article 5.3.1 of Constitution and Committee TORs regarding delegation of approval of accounts and CG statement to CG Committee	02.09.2011	3	Police Authority	41
Standing Orders	E	Change of name of Standing Orders to Procedure Rules	02.09.2011	3	Police Authority	41
Procedure Rules	E	Addition of an urgency procedure.	02.09.2011	3	Police Authority	41

# DEVON AND CORNWALL POLICE AUTHORITY

## CONSTITUTION

**The Devon and Cornwall Police Authority is a body corporate constituted in accordance with Section 3, Schedule 1 of the Police Act 1996.**

### Explanation

The Constitution sets out how the Police Authority operates, how decisions are made and the procedures which are followed to ensure that we operate in an efficient, transparent and accountable manner. Some of the processes and procedures are governed by law whilst others have been decided by the Authority. The Constitution comprises the Articles supported by various Protocols, Codes and Procedure Rules.

The key function and purpose of the Police Authority is to secure the maintenance of an efficient and effective police force to do this the Police Authority:

- Scrutinises the delivery of police services and monitors police performance
- holds the chief constable to account for delivering those services,
- sets the policing budget
- sets policing priorities and targets

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## Article 1 - The Constitution

### 1.1 The Constitution

The Constitution of Devon and Cornwall Police Authority comprises these Articles and the supporting appendices.

### 1.2 Powers of the Police Authority

The Police Authority 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 Police Authority will exercise its powers and duties to ensure the provision of an effective and efficient police service for Devon and Cornwall and the Isles of Scilly
- to set out how decisions will be taken
- to ensure that the people responsible for decision making are clearly identifiable
- to establish a means of holding decision makers to public account
- to ensure that no member will review or scrutinise a decision in which they were directly involved other than to contribute to the debate when any decision is re-considered.

## **Article 2 – Members of the Police Authority**

### **2.1 Composition**

The Police Authority comprises 10 Councillors, and 9 Independent members.

The Councillor members are appointed as follows: -

Cornwall County Council	3 Members
Devon County Council	4 Members
Plymouth City Council	1 Member
Torbay Borough Council	1 Member
Council for the Isles of Scilly	1 Member

Councillor members are appointed by the above Councils, acting as part of a joint committee, to reflect the overall political balance across the 5 appointing Councils.

The nomination of Councillor Members is effective from the date notification of their representation is received. The nomination expires

- on the date of the next election for their council or,
- when the political balance of the constituent authorities of the joint committee changes or,
- when the Member resigns from either the Authority or as a Councillor,

whichever is the soonest following their nomination.

If an Authority member who is a Council nominee is not re-elected in the election for their council he or she immediately ceases to be a member of the Authority.

The Authority appoints the Independent Members, one of whom must be a Lay Justice, in accordance with the relevant legislation.

### **2.2 Roles of Members**

2.2.1 Members shall carry out the following key roles

- Attend meetings of the Police Authority
- Participate effectively as a member of any committee, group or other forum to which appointed
- Represent the Police Authority on other bodies such as Crime and Disorder Reduction Partnerships and Local strategic Partnerships
- Oversee police performance and standards of policing
- Engage with local people to obtain their views on local policing
- Set an annual budget and the associated police precept (Council tax)
- Agree a 3-year strategic plan, local policing priorities and targets to improve police performance
- Appoint the Chief Constable and other senior police officers and staff
- Maintain an understanding of both local and national policing issues
- Oversee the Force's complaints systems and deal with complaints against senior Police Officers and Directors in the Chief Officer Group
- Promote equality and diversity
- Develop opportunities for partnership working

#### **2.2.2 Chair and Vice-Chair of the Authority**

The Chairman and Vice-Chairman are appointed annually. The normal expectation is that the Chairman will serve for two terms subject to annual appointment. In exceptional circumstances the Chairman may serve for a third term. (see also 5.3.2)

## **2.3 Rights and Duties**

- 2.3.1** Members have rights of access to such documents, information, land and buildings of the Authority as are necessary for the proper discharge of their functions and in accordance with the law.
- 2.3.2** Members must not make public any information which is confidential, exempt or restricted without the consent of the Authority or divulge information given to them in confidence to anyone other than another Member or Officer entitled to receive it.
- 2.3.3** Members have rights to speak or raise an item at all Police Authority meetings at the discretion of the Chairman and provided they comply with Procedure Rules, Standing Orders and the Members' Code of Conduct.

## **2.4 Governance and Ethical Standards**

All Members sign a declaration that they will at all times observe the Members' Code of Conduct set out in Appendix A. Breaches of the Code of Conduct are dealt with in accordance with the relevant legislation. Members are expected to demonstrate and maintain the highest standards of conduct and ethics. Members and Officers are expected to abide by the Protocol on Member/Officer relations, which is set out in the Operating Framework.

The Authority has adopted a Code of Corporate Governance as in Appendix B. The Code is about ensuring the Authority is doing the right things, in the right way, for the right people in a timely, inclusive, open and accountable manner.

## **2.5 Allowances and Reimbursements**

All Members are entitled to receive allowances and reimbursements in accordance with the Members' Allowances Scheme set out at Appendix H. Changes to the allowances scheme can only be agreed at a meeting of the full Authority.

## **Article 3 Citizens' Rights and Responsibilities**

### **3.1 Citizens have the following rights:**

- To attend meetings of the Authority and its committees, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private
- That a member of the public who lives in Devon, Cornwall or the Isles of Scilly may submit a written question to the Authority Chair or Chair of a committee which will be answered in full at the full Authority meeting. All such questions will be dealt with in accordance with the protocol in the appropriate Appendix of the Constitution
- To see reports and background papers and any records of decisions made by the Police Authority and its Committees subject to exceptions in respect of confidential and exempt information
- To inspect the Police Authority's accounts during the audit process and make their views known to the external auditor
- To exercise their rights under legislation including the Freedom of Information act 2000 and the Data Protection Act 1998.

### **3.2 Citizens have the right to complain to:**

- The Police Authority about the services it provides or the conduct of a Member or Officer
- The Local Government Ombudsman, after using the Police Authority's own complaints procedure, if they believe the Authority has failed to carry out its duties properly.

## **Article 4 - Management Structure**

### **4.1 Staffing**

The Authority shall employ such staff, as it considers necessary for the discharge of its functions and responsibilities, including a Chief Executive, Treasurer and Monitoring Officer. The Authority shall specify from time to time the job descriptions of those officers.

## **4.2 The Chief Executive**

The Chief Executive shall be responsible for the effective management of all staff directly employed by the Police Authority and the efficient delivery of services to Members.

## **4.3. Monitoring Officer**

The Chief Executive undertakes the role of Monitoring Officer. The role of the Monitoring Officer is to ensure that the Authority operates within the law and its Constitution and deals with people fairly and reasonably. Where the Monitoring Officer discovers the Authority has or, proposes to break the law or, that it has or proposes to act unfairly, they must make a report to the full Authority.

## **4.4 The Treasurer**

The role of the Treasurer is to ensure that the Authority uses and manages its financial resources wisely and that decisions relating to the use of the Authority's financial resources are lawful and prudent. The Treasurer is responsible for:

- the financial prudence of decision-making in relation to the Police Authority's functions,
- for reporting to the Police Authority and the Police Authority's External Auditor on the lawfulness of expenditure,
- for administering the financial affairs of the Police Authority including compliance with legal requirements in respect of the Police Authority's annual accounts and budget, and
- for contributing to the corporate governance of the Police Authority through the provision of professional advice, auditing and reporting.

## **4.5 Duty to provide sufficient resources to the Monitoring Officer and Treasurer**

The Authority will provide the Monitoring Officer and the Treasurer with such officers, accommodation and other resources as are, in the officers' opinion, sufficient to allow their duties to be performed.

## **4.6 Conduct**

There is an Officer Code of Conduct which officers recruited after 3 July 2008 sign on appointment. Members and officers are expected to abide by the Protocol on Member/Officer Relations, which is set out in the Operating Framework

## **Article 5      Decision Making**

### **5.1      Responsibility for decision making**

The following may make decisions in accordance with terms of reference and delegated powers set out within appendices to this Constitution:

- The Police Authority
- A Committee or Sub Committee acting in accordance with delegated powers
- An Officer or Member acting with delegated power.

### **5.2      Principles of decision-making**

All decisions of the Authority (including those of the Committees and the Authority's Officers) will be made in accordance with the following principles and considerations:

- The provisions of this Constitution
- Legality
- Financial prudence and value for money
- The provision of an effective and efficient police service
- The likely effect on the prevention of crime, disorder and anti-social behaviour in the Authority's area
- The exercise of power must be proportionate to the desired outcome
- Proper account will be taken of consultation with partners and the public
- Proper consideration of professional advice from Officers
- Respect for human rights and for diversity and equality
- Environmental impact and sustainability
- Decisions will be made in public whenever practicable and appropriate
- The management of risk in a proportionate and considered manner.

### **5.3. Police Authority Decisions**

5.3.1 The matters listed in this section are important and cannot be decided by an individual or a Committee but must be considered and decided by a full Authority meeting:

- Setting of the Annual Budget
- Matters relating to the borrowing of money
- Approval of the Medium Term Financial Strategy
- Matters involving expenditure for which budget provision is not made
- Matters relating to a substantial variation in, or future development of, programmes or services for which a committee is responsible
- Matters that raise a question of substantial policy not previously discussed by the Authority
- Agreement of the following plans and policies :
  - Single Equality Scheme (on recommendation from Strategic Planning and Co-ordination Committee)
  - The Policing Plan
  - Authority Strategic Plan (on recommendation from Strategic Planning and Co-ordination Committee)
  - Stop and Search Plan
  - Community Engagement Plan (on recommendations from the Local Policing and Public Confidence committee)
  - Indemnity Policy (on recommendation from Corporate Governance Committee)
  - Estates Strategy (on recommendation from Resources Committee)
- Approval of Code of Corporate Governance (following recommendation from the Corporate Governance Committee)
- Changes to the Constitution (articles etc on recommendation from the Corporate Governance Committee)
- Approval of the Members' Allowances Scheme.
- Delegation of specific functions to a Committee or Sub Committee
- Matters in which the Authority has established a policy but where a Committee's decision would be at variance with that policy
- Matters where there is a disagreement between one committee and another
- Election of Authority Chair and Vice-Chair (for more information please refer to Procedure Rules)
- Appointment of Independent Members – final approval
- Appointment of Independent Members of the Standards Committee
- Agreement of dates for the Authority meetings

NB the Authority will also deal with all matters that have not been delegated to a Committee or an Individual”

### **5.3.2 Annual Meeting**

5.3.2.1 The annual meeting of the Authority will be held in May or June each year.

5.3.2.2 The Chair and Vice-Chair of the Authority will be appointed at the annual meeting; the process for their election will be in accordance with any relevant legislation and the Authority's Procedure Rules.

5.3.2.3 The annual meeting will determine the dates of other meetings of the full Authority.(more detailed information about procedures and tasks and the annual meeting can be found in Procedure Rules).

### **5.4 Committees/Groups**

5.4.1 The Authority operates with a system of Committees and Groups. The terms of reference and delegated powers of Committees are set out in Appendices.

**5.4.2** The full Authority will determine the Committee structure. Any such structure will include provision for a Standards Committee as required in legislation.

**5.4.3.** The Strategic Planning and Co-ordination Committee will approve the terms of reference for working groups and task and finish groups.

**5.4.4.** The Chairman of the Police Authority in consultation with the Chief Executive will determine the membership of individual Committees and groups.

**5.4.5** Individual Committees and Groups will appoint their own Chairmen at the first meeting after the Annual meeting of the Police Authority.

## **5.5 Strategic Planning and Co-ordination Committee**

The Membership of the Strategic Planning and Co-ordination Committee comprises the Chair and Vice Chair of the Authority and Chairs of the Authority's Principal Committees with the exception of the Corporate Governance Committee

The principal committees include:

- Human Resources Committee

- Resources Committee

- Protective Services Committee

- Local Policing & Confidence Committee

- Professional Standards Committee

In the event that either the Chairman or Vice-Chairman (of the Authority) also holds the position of a Committee Chair then the Vice-Chairman of that Committee will be a standing Member of the Strategic Planning and Co-ordination Committee.

When a Committee Chairman is unable to attend a meeting then his/her Vice-Chairman can attend on their behalf.

The Chair and Vice-Chair of the Corporate Governance Committee do not sit on the Strategic Planning and Co-ordination Committee in order for them to be able to maintain an independent viewpoint and providing a check and challenge scrutiny role.

## **5.6 Notice of meetings**

A Notice of all meetings will be sent to all members in the form of the agenda. Members of the Committee or group will receive a hard copy of the agenda and papers – other Members will be able to view these via the Internet. Any member can ask that a hard copy of any particular item be sent to him/her.

## **5.7 Notice and summons to meetings**

The Chief Executive will give notice to the public of the time and place of meetings.

## **5.8 Record of decisions**

The minutes of all meetings will be produced as soon as practicable after the meeting.

## **5.9 Attendance at meetings**

Any Member can attend any committee or group meeting and may with the agreement of the Committee/Group speak on any item.

In the event of a Member being unable to attend any meeting he/she shall have the right to submit his/her views in writing or by e-mail to the Committee Chair or the Chief Executive in relation to any matter before the Committee. The Committee Chair or Chief Executive, as appropriate, will arrange for such views to be reported to the Committee.

## **5.10 Lead Members**

Lead Members are appointed by the Chairman of the Police Authority in consultation with the Chief Executive and are allocated a specific scope of work. The Lead Member Operating Protocol is set out in the Framework

#### **5.11 Procedure Rules/Financial Regulations/Standing Orders for Tenders and Contracts**

The Authority's Procedure Rules, Financial Regulations, Standing Orders for Tenders and Contracts will apply to all Authority and Committee meetings. These are set out in Appendices to the Constitution.

#### **5.12 Officers – Delegated Powers**

The delegated powers given to the Authority's officers and the Chief Constable are set out in Appendix C and decisions will be taken in accordance with the Procedure Rules, Financial Regulations and Standing Orders for Tenders and Contracts.

### **Article 6 Joint Working Arrangements**

6.1 The Authority may promote the effectiveness and efficiency of the Authority and Constabulary by:

- Entering into arrangements or agreements with any person or body or
- Co-operating with, or facilitating or co-ordinating the activities of, any person or body.

### **Article 7- Financial and Legal Affairs**

#### **7.1 Management of Financial Affairs**

The management of the Police Authority's financial affairs will be conducted in accordance with Financial Regulations and Standing Orders Relating to Contracts which are contained in appendices to the Constitution

#### **7.2 Contracts**

Every contract entered into by the Police Authority will comply with Standing Orders relating to Contracts

#### **7.3 Legal Proceedings**

7.3.1 The Chief Executive / Monitoring Officer has authority to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Police Authority or in any case where he /she considers that such action is necessary to protect the Authority's interests

7.3.2 Where any document is necessary to any legal procedure or proceedings on behalf of the Police Authority it will be signed by the Chief Executive or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Police Authority has given requisite authority to some other person.

#### **7.4 Principal Address**

The principal address of the Authority is:

Endeavour House,  
Woodwater Park,  
Pynes Hill,  
Exeter,  
Devon,  
EX2 5WH

### **Article 8 - Review and Revision of the Constitution**

#### **8.1 Duty to monitor and review the Constitution**

The Authority's Corporate Governance Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Any concerns

about the Constitution should be raised in the first instance with the Chief Executive who will report on the matter to the Corporate Governance Committee.

### **8.2 Protocol for monitoring and review of Constitution by Monitoring Officer**

The Monitoring Officer will advise the Corporate Governance Committee on the operation of the Constitution and make recommendations for ways in which it should be amended in order better to achieve the purposes set out in 1.3. In undertaking this task the Monitoring Officer may:

- (a) observe meetings of different parts of the Member and Officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and research issues raised with him / her by Members, officers, the public and other relevant stakeholders; and
- (d) compare the Authority's practices with those in other comparable authorities or national examples of best practice.

### **8.3 Changes to the Constitution**

Changes to the Constitution Articles will only be approved by the Police Authority after consideration of a proposal by the Corporate Governance Committee except that the Monitoring Officer shall be responsible without such reference for routine updating necessary to reflect the decisions of the Authority.

## **Article 9 - Suspension, Interpretation and Publication of the Constitution**

### **9.1 Suspension of the Constitution**

The Articles of this Constitution may not be suspended

#### **9.1.2. Procedure to suspend.**

A motion to suspend any provisions of the Constitution (apart from the Articles) will not be moved without notice at a meeting of the Police Authority unless at least one half of the whole number of members is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in 1.3.

### **9.2 Interpretation**

The ruling of the Chairman of the Police Authority as to the interpretation or application of this Constitution shall not be challenged at any meeting of the Authority. Any such ruling will have regard to the purposes of this Constitution contained in Article 1.3.

### **9.3 Publication**

The Monitoring Officer will ensure the Constitution is published as follows:

- By giving a printed copy to each Member of the Authority upon appointment to the Police Authority.
- by making printed copies available for public inspection at the Police Authority offices
- by publishing on the Police authority's website
- by ensuring that updates to the Constitution are similarly distributed.

The Authority will, upon request, do its best to make the Constitution available in languages other than English or alternative formats.

## **Appendices**

- A Code of Conduct for Members
- B Code of Corporate Governance
- C Delegated Powers to Officers
- D Committee terms of reference and delegated powers
- E Procedure Rules (formerly known as Standing Orders)
- F Financial Regulations
- G Standing Orders relating to Contracts
- H Members' Allowances
- I Protocol for Questions from the Public at Full Authority Meetings