



AGENDA ITEM 12

**Meeting:** Joint Audit Committee

**Date:** 23 September 2022

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**Overview of the Scheme of Governance**

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

**Contact:** Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

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**1. Purpose of Report**

- 1.1 The purpose of this report is to support the Joint Audit Committee in exercising oversight of the Police, Fire and Crime Commissioner's (PFCC's) scheme of governance, by providing an overview of these arrangements.
- 1.2 It should be noted that operational decision making in respect of policing is exempt from these arrangements, being within the direction and control of the Chief Constable.

**2. Recommendations**

- 2.1 That the Joint Audit Committee notes the content of this report, seeking any further clarity that may be required.

**3. Overview of the PFCC's Scheme of Governance**

- 3.1 The PFCC and the Chief Constable are established in law as two separate corporation soles, although there is a clear expectation that they will work together to safeguard the principal of operational independence whilst also ensuring that the PFCC is not fettered in fulfilling their statutory role.
- 3.2 A series of documents describes how the PFCC will discharge their statutory responsibilities and functions, particularly their two overarching statutory responsibilities; to secure an efficient and effective local police service, and to hold the Chief Constable to account for the exercise of their functions and those of persons under their direction and control. Where appropriate, the PFCC and the Chief Constable share a set of common policies, systems and procedures underpinning the scheme of governance.

3.3 The following documents together set out how the PFCC and Chief Constable make decisions, who else has the authority to make certain decisions, and how the business of the PFCC is to be transacted:

- The **Police and Crime Plan** sets the strategic direction for the force and the policing and crime objectives (outcomes) to be achieved.
- The PFCC's **Constitution** describes the statutory framework within which the PFCC and the Chief Constable operate and clarifies the way in which their relationship functions and how core principles will be implemented.
- **Codes of Ethics and Conduct**, along with the PFCC's **Business Interests – Staff Declaration Policy**, set out the standards of behaviour and integrity expected of the PFCC, Deputy PFCC, staff and officers as well as the procedures to be followed with regard to the declaration of external interests, gifts and hospitality.
- The PFCC's **Ethics and Integrity Framework** sets out the values and principles that guide the conduct of the PFCC, the Deputy PFCC and their staff. The Police, Fire and Crime Panel's Ethics and Integrity Sub-Committee scrutinises compliance with the PFCC's Ethics and Integrity Framework and with the Police Code of Ethics.
- The **Schemes of Delegation and Consent** set out the principles and processes underlying how decisions will be taken by the PFCC, the Chief Constable and their staff and officers.
- The **Medium-Term Financial Strategy (MTFS)** forms the basis of annual budgets and provides a framework for evaluating future proposals.
- **Financial and Procurement Regulations** govern the relationship between the PFCC and the Chief Constable in relation to financial management and set out the roles and responsibilities of all these parties involved in this.
- The **Seven Force Contract Standing Orders** set out the procedures relating to procurement, tenders and contracts across the seven police forces in the eastern region, including Essex.
- The joint **Anti-Fraud and Bribery Policy** sets out a zero-tolerance approach to fraud and misappropriation and applies to all employees of the PFCC and Chief Constable as well as consultants, vendors, contractors and other parties who have a business relationship with the PFCC and / or Essex Police.
- The PFCC's **Decision-Making Policy** sets out the duties of the PFCC and their staff in creating a robust audit trail of the decisions made by the PFCC, the supporting evidence and the reasons for taking these decisions.
- The PFCC's **Access to Information Policy** (incorporating the PFCC's **Publication Scheme**) ensures that relevant information is made readily available to local people.
- **Communications and Engagement Strategies** set out the PFCC's and Chief Constable's arrangements for engaging with key stakeholders and ensuring that local people are involved in the work and decision making of the two corporation soles.
- The PFCC's **Complaints and Expressions of Dissatisfaction Policy** sets out the duties of the PFCC and their staff in dealing with complaints about the PFCC, Deputy PFCC, Chief Constable, staff of the PFCC, and staff and officers of Essex Police.
- **Equality, Diversity and Inclusion Strategies** set out the equality objectives the PFCC and the force have adopted and how these will be implemented and monitored.
- **Terms of Reference** describe how each of the PFCC's various governance boards will transact their business.
- The PFCC and the Chief Constable both maintain **Strategic Risk Registers, Risk Appetite Statements** and **Risk Management Handbooks** which describe how risks are identified and managed and how risk management is embedded within the corporate governance arrangements of the two corporations sole.

- 3.4 It is the responsibility of the Monitoring Officer to the PFCC and of the Chief Finance Officers to the PFCC and the Chief Constable to ensure that the PFCC, Deputy PFCC, staff and officers are aware of the provisions and obligations of the various documents that comprise the scheme of governance and are able to comply with them. Where necessary, training will be provided to staff and officers to ensure such requirements can be complied with.
- 3.5 The PFCC's governance arrangements are consistent with the *PCC and Chief Constable Accountability Framework* developed by the Association of Police and Crime Commissioners (APCC) and deliver the six core principles of good governance set out in *The Good Governance Standard for Public Services*, namely:
- 1) Focusing on the purposes of the PFCC and the Chief Constable and on outcomes for citizens and service users;
  - 2) Ensuring that both the PFCC and the Chief Constable perform effectively in clearly defined functions and roles;
  - 3) Promoting the values of the PFCC and Chief Constable and demonstrating the values of good governance through behaviour;
  - 4) Taking informed, transparent decisions and managing risk;
  - 5) Developing the capacity and capability of the PFCC to be effective, and
  - 6) Engaging stakeholders and making accountability real.

*Decision Making Principles and Powers*

- 3.6 The PFCC's Police and Crime Plan sets out the strategic direction and priorities of the Essex Police force and, at a high level, how they will be delivered during the PFCC's term of office, paying due regard to the Strategic Policing Requirement set by the Home Secretary. Both the PFCC and the Chief Constable must have regard to the Plan in their day to day decision making and activities. The Plan is further supported and operationalised by the annual Force Plan developed by the Chief Constable. Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) also requires forces to produce a Force Management Statement. This is a detailed self-assessment of the force's short to medium term future demand and how that demand might be met or managed.
- 3.7 The Constitution governs the relationship between the PFCC and the Chief Constable and sets out the powers (and the constraints on those powers) that may be exercised or delegated by either party. It details the arrangements that exist to enable the PFCC to make robust, well-informed and transparent decisions and to hold the Chief Constable to account. This and the PFCC's Decision-Making Policy set out the policies and procedures that will be followed to ensure that all decisions made by the PFCC are lawful, accessible and transparent to the public. Through the Constitution, the PFCC has adopted a number of principles of decision making, including a presumption in favour of openness and transparency; the need for consultation with interested parties, and the need to give reasons and explanations for a decision. The PFCC may make decisions at any time, though particular regulations and guidance apply to the making of decisions in the period immediately prior to an election.
- 3.8 The PFCC may delegate certain powers to their officers under section 18 of the Police Reform and Social Responsibility Act 2011. The Act also permits the PFCC to appoint a Deputy whose role is prescribed in a role profile set by the PFCC and described within the Scheme of Delegation. The Schemes of Delegation and Consent set out the powers and functions of the PFCC that may, at the time of their publication, be exercised by the Deputy PFCC, the Chief

Constable and other officers in order to ensure that day to day matters are attended to. In exercising these powers and functions, such officers must comply with all relevant statutory and regulatory requirements as well as relevant professional guidance.

3.9 The PFCC delegates to their Deputy the authority to act in their absence, or in accordance with their direction, in the exercise of all of their functions, except those which cannot be delegated under section 18 of the Police Reform and Social Responsibility Act, namely:

- Issuing a Police and Crime Plan
- Appointing or suspending the Chief Constable
- Calling upon the Chief Constable to retire or resign
- Calculating a budget requirement for the purpose of issuing a precept
- Exercising the functions that the PFCC has under Part 2 of the Police Reform Act 2002 (Complaints and Misconduct)

3.10 The following functions may only be delegated to the Deputy PFCC:

- Determining police and crime objectives
- Attending a meeting of the Police, Fire and Crime Plan in compliance with a requirement by the Panel to do so
- Preparing an annual report to the Police, Fire and Crime Panel

3.11 The PFCC may not delegate the performance of any functions to:

- A Police Constable
- A Police and Crime Commissioner, or a Police, Fire and Crime Commissioner
- The Mayor's Office for Policing and Crime (MOPAC)
- The Deputy Mayor for Policing and Crime appointed by MOPAC
- The Mayor of London
- The Common Council of the City of London
- Any other person or body which maintains a police force
- A member of staff of any of the above

3.12 Whilst the PFCC may not delegate the performance of any of their functions to another PCC, PFCC or any other person or body which maintains a police force, Section 22 of the Police Act 1996, as amended by the Police Reform and Social Responsibility Act 2011, provides that a collaboration agreement may be made by two or more policing bodies. Specific collaboration agreements govern those areas of activity undertaken jointly with other forces and local policing bodies. Any joint working between the PFCC and the separate corporation sole of the Police, Fire and Crime Commissioner Fire and Rescue Authority (PFCCFRA) is likewise expected to be governed by a formal agreement such as a contract, or underpinned by a memorandum of understanding in accordance with published guidance on collaboration agreements, including the Statutory Guidance for Police Collaboration published by the Home Office. The costs of shared functions should be apportioned between the respective budgets on the basis of agreed recharges in line with the relevant formal agreements.

3.14 The PFCC must appoint:

- A Chief Executive to discharge the functions of the PFCC's Head of Paid Service under section 4(1)(a) of the Local Government and Housing Act 1989, who will also fulfil the duties of the Monitoring Officer set out in section 5 of the same Act, and

- A person to be responsible for the proper administration of the PFCC's financial affairs (Chief Finance Officer), who must be a member of an accountancy body specified in section 113 of the Local Government Finance Act 1988.

These officers are known as "the statutory officers". The persons appointed as statutory officers to either the PFCC or the Chief Constable have certain powers and duties deriving from these statutory roles, particularly pertaining to the reporting of any potentially unlawful decisions or actions taken by the PFCC. The delegations set out within the Schemes of Delegation and Consent are without prejudice to their ability to discharge these statutory roles. The statutory officers do not, therefore, rely on their statutory powers and duties being specifically delegated to them within the Schemes of Delegation and Consent in order to carry these out. The same applies to the Chief Constable and the PFCC's Chief Executive in their respective capacities as the Heads of Paid Service of the two corporation soles.

- 3.15 The PFCC's Chief Executive and Monitoring Officer is responsible for preparing for the PFCC's approval and keeping under review any delegations and consents required to be issued, revoked or varied. The Schemes of Delegation and Consent may be varied by the PFCC, in consultation with the Chief Constable, at any time.
- 3.16 As well as their duties to the PFCC and Chief Constable respectively, the Chief Finance Officers have personal fiduciary duties to local council taxpayers by virtue of their appointment as the persons responsible for proper financial administration. These include requirements and formal powers to safeguard the lawfulness and propriety of expenditure as set out in sections 112 and 114 of the Local Government Finance Act 1988 (as amended by paragraph 188 of Schedule 16 to the Police Reform and Social Responsibility Act 2011) as well as the Accounts and Audit Regulations 2011.
- 3.17 Notwithstanding any delegations that may be in place, the PFCC reserves the right to require that a specific matter be referred to them for a decision rather than being dealt with under the powers of delegation. Equally, delegation to officers does not preclude them from referring a matter to the PFCC for a decision if the officer considers this appropriate; for example, on account of the sensitive nature of an issue or because the matter may have a significant financial or resource implication. It is understood by staff and officers within both the PFCC's office and Essex Police that the PFCC will particularly want to be involved in any decisions which may have a significant impact on the delivery of the Police and Crime Plan.
- 3.18 The only way in which the PFCC will make a formal decision is via a Decision Report. A standard decision report template is used by both the PFCC's office and the force. Each decision is allocated a unique reference number and the details are recorded on an electronic register. This enables the PFCC's decisions, and the reasons for them, to be properly recorded, published and scrutinised.
- 3.19 The decision report template requires that associated risks and mitigations are addressed within all decision reports, along with the financial and staffing implications of the proposal and any equality, diversity and inclusion considerations. Where the latter are potentially extensive, a full Equality Impact Assessment (EIA) must be prepared and submitted along with the decision report. All decision reports submitted to the PFCC are reviewed and signed in advance by the PFCC's Monitoring Officer and Chief Finance Officer, in order to verify that the appropriate information and advice has been included. Training is provided by the PFCC's Monitoring Officer to staff and officers in both the PFCC's office and the force to ensure that they are appropriately briefed and equipped to produce quality reports.

3.20 All decisions made by the PFCC are (unless they are protectively marked under the Government Security Classification Scheme) published on the PFCC's website as soon as practicable after the decision is made and reported to the next meeting of the Essex Police, Fire and Crime Panel, which has a statutory role in scrutinising the decisions and actions taken by the PFCC in discharging their functions. Where there is a need to share information that is protectively marked (for example, to support the Essex Police, Fire and Crime Panel in undertaking its statutory role), the PFCC's Chief Executive and Monitoring Officer, in consultation with other officers as appropriate, will determine the basis on which such information is to be made available.

3.21 The PFCC may be briefed on the content of a decision report via one of their standing governance boards, or through their monthly performance meetings with the Chief Constable.

*The PFCC's Principal Governance Boards*

3.22 In order to transact business transparently and effectively, the following governance meetings take place regularly:

- The **Strategic Board** meets quarterly to exercise strategic governance and oversight of the force's strategic transformation programme, Medium Term Financial Strategy and capital programme, and to be the primary advisory body to the PFCC and Chief Constable in respect of strategic decisions.
- The **Performance and Resources Board** meets monthly to oversee financial and performance monitoring.
- The **Essex Emergency Services Collaboration Strategic Governance Board** meets bi-monthly to provide strategic governance and oversight of the Essex Emergency Services Collaboration Programme.
- The **Strategic Estates Board** meets quarterly to oversee development of the police estate on behalf of the PFCC and the Chief Constable. It operates within the Estates Strategy to secure a future-proof, functional and fit-for-purpose estate that balances public expectations, professional judgement and innovative means of service delivery.
- The **Joint Audit Committee (JAC)** meets at least four times a year to provide independent assurance to the PFCC and the Chief Constable regarding the adequacy of their risk management frameworks and the associated control environments.

3.23 Agendas, reports to and minutes of the meetings of the PFCC's principal governance boards (unless protectively marked) are published on the PFCC's website. A forward plan is also maintained and published for each of the PFCC's principal governance boards. These in turn inform business planning processes within the PFCC's office and the force (determining, for example, the scheduling of reports to the PFCC's Senior Management Team and the force's Chief Officer Group).

- 3.24 Consultation with the public, partners, the third sector and other key stakeholders also feeds into the strategic planning cycle to ensure that their views influence the delivery of the PFCC's priorities. Since taking office, the PFCC has held public meetings at least once a year in each of the 14 districts and unitary areas in the county, where the people of Essex are able to challenge the PFCC on how he is holding the Chief Constable to account for the delivery of policing. Notes for each of the meetings are made available on the PFCC's website, along with issues raised at each of these events and any subsequent outcomes. The PFCC also meets regularly with local Councillors and MPs in order that they can raise any concerns or offer any suggestions in relation to policing and crime in Essex. Forums also exist for specific groups, discussing issues such as victim support, rural crime and business crime. These forums enhance partnership working across all areas and link directly with the delivery of the Police and Crime Plan.

*Financial Matters*

- 3.25 The PFCC holds the Police Fund and receives all funding and income relating to policing in Essex, including the government grant and the policing precept. The allocation of this funding is for the PFCC to determine in consultation with the Chief Constable and subject to the terms and conditions of any grants that may be awarded. As such, the PFCC sets the force's annual revenue budget, thereby determining the resource envelope within which the Chief Constable must operate. There is no budget flexibility between the Police and Fire Funds.
- 3.26 To ensure the effective and efficient delivery of policing services, and so as not to fetter the operational direction and control of the force, the Chief Constable has day to day responsibility for the financial management of the force, within the framework of the agreed budget allocation and levels of authorisation, rules of virement and reporting arrangements set by the PFCC within the Schemes of Delegation and Consent, the Financial and Procurement Regulations and Contract Standing Orders. It is the responsibility of the Chief Constable to ensure that the day to day management of the budget allocated to the force by the PFCC meets the objectives and conditions made clear by the PFCC when setting the annual budget as well as in key strategic documents, most notably the Police and Crime Plan.
- 3.27 The PFCC and the Chief Constable develop and maintain a Medium-Term Financial Strategy (MTFS) which forms the basis of annual budgets and provides a framework for evaluating future proposals. Investment decisions are subject to a comprehensive process of analysis and evaluation which includes options appraisal, techniques for assessing the impact of the investment on delivery of the target outcomes set out in the Police and Crime Plan, and how the anticipated benefits will be realised, monitored and reported.
- 3.28 The PFCC also approves an annual capital programme. All capital expenditure incurred during the year must be in keeping with the approved capital programme. As with the annual revenue budget, the PFCC consents to the Chief Constable the day to day financial management of the capital programme within the authorised limits set out in the Financial and Procurement Regulations.
- 3.29 All contracts (other than those relating to the employment of police staff and officers) will be in the name of the PFCC but the PFCC consents permission to the Chief Constable for the daily management and operation of contracts within the framework set out in the Financial and Procurement Regulations.

- 3.30 The PFCC and the Chief Constable have drawn upon the power to enter into a collaboration agreement under Section 22 of the Police Act 1996 (as amended by the Police Reform and Social Responsibility Act 2011) to order to enter into collaborative arrangements in relation to procurement and to agree a single set of Contract Standing Orders for all seven police forces in the eastern region (Essex, Kent, Norfolk, Suffolk, Bedfordshire, Cambridgeshire and Hertfordshire). These Contract Standing Orders govern the relationships between the respective PFCC / PCCs, Chief Constables and others in relation to contracts. All procurements and contracts must also comply with relevant statutory requirements and procurement regulations.

*Asset Management*

- 3.31 The PFCC retains ownership of all police assets in Essex regardless of whether they are used by the PFCC, the force or both. The PFCC consents to the Chief Constable free and unfettered access to and full operational use of police assets, to enable him to discharge his statutory and operational responsibilities. Responsibility for the day to day management of such assets (including buildings maintenance) is delegated to the Chief Constable and is carried out by staff and contractors, as appropriate, on their behalf.
- 3.32 The acquisition and disposal of land and / or buildings requires the approval of the PFCC in all instances. The Chief Constable may acquire or dispose of property other than land or buildings subject to the provisions of the Financial and Procurement Regulations. Property so acquired will still be owned by the PFCC.
- 3.33 The PFCC shall fund all capital purchases and all such expenditure shall be met from the PFCC's bank accounts. Likewise, all income from the disposal of assets is due to the PFCC.

*Monitoring and Review*

- 3.34 In maintaining and reviewing the scheme of governance, the PFCC and Chief Constable place reliance on the work undertaken by Internal Audit and particularly on its independent opinion on the adequacy and effectiveness of the system of internal control. Reviews of the PFCC's and the Chief Constable's risk management arrangements feature periodically in the annual audit plan, which is subject to review by the Joint Audit Committee. Corporate governance and risk management issues may also be identified through other reviews carried out by Internal Audit, in which case they will be raised through the relevant audit report. A robust process is in place to track the implementation of recommendations and actions arising from internal audits across both Essex Police and the PFCC, which is overseen by the force's Chief Finance Officer and reported to the Joint Audit Committee on a quarterly basis. The Head of Internal Audit also reports to the Joint Audit Committee on a quarterly basis, drawing attention to any weaknesses in control identified.
- 3.35 The External Auditors audit the PFCC's and Chief Constable's financial statements, Annual Governance Statement and arrangements for securing value for money. Their plans and reports, including the Annual Audit Report, are reviewed by the Joint Audit Committee at appropriate intervals in the annual cycle of meetings.
- 3.36 Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) also has a role to play in ensuring a robust scheme of governance. The role of HMICFRS is to promote the efficiency and effectiveness of police forces and fire and rescue services in England, Wales and Northern Ireland through a programme of inspections to ensure that accepted standards



are met, good practice is disseminated, and performance is improved. It also provides advice and support to the Home Secretary, PCCs / PFCCs and forces. HMICFRS reports allow the PFCC, the Chief Constable, the public and other key stakeholders to compare the performance of Essex Police with other forces. HMICFRS reports are sent to the PFCC and Chief Constable for consideration of appropriate action. The PFCC is required to respond to any published HMICFRS report relating to Essex Police and must publish their response.

- 3.37 Internally, the PFCC and the Chief Constable, supported by their statutory officers, carry out an annual review of the adequacy and effectiveness of the scheme of governance and prepare a joint Annual Governance Statement (AGS) that is scrutinised by the Joint Audit Committee as part of the closure of accounts process. The joint AGS explains and evaluates how the PFCC and the Chief Constable have complied with the scheme of governance throughout the year and describes how continuous improvement in the system of internal control will be achieved.
- 3.38 The individual documents that form the scheme of governance are subject to regular review and amendment as required in consultation with the relevant statutory officers. Amendments to the Constitution are also subject to consultation with the Essex Police, Fire and Crime Panel prior to their approval by the PFCC. These regular reviews ensure that such documents remain aligned to the legislative framework, regulations and codes of practice governing policing.