

Part 3

Section 3.2 – The Mayor’s Police and Crime Commissioner Functions – Scheme of Delegation

Scheme of Delegation

These arrangements are to have effect from 10th May 2021 until superseded by any subsequent scheme approved by the Mayor. This Scheme of Delegation replaces previous schemes in operations and reflects the obligations and needs of the Mayor.

1. Introduction

- 1.1. This Scheme of Delegation provides authorised individuals with the legal authority to carry out specific Police and Crime Commissioner Functions (PCC Functions) on behalf of the Mayor.
- 1.2. The PCC Functions are set out in section 1 of the Police Reform and Social Responsibility Act 2011 (the 2011 Act) as modified by The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021(the 2021 Order)
- 1.3. The statutory powers of the Mayor to arrange for others to exercise PCC Functions are set out in section 18 of the 2011 Act. In addition, by virtue of section 14 of Schedule 1 of the 2011 Act, the Mayor may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of those functions, subject to other provisions in the 2011 Act and any other enactments concerning the exercise of PCC Functions.
- 1.4. With the exceptions set out in this paragraph and in paragraphs 1.5 and 1.6 below, the Mayor may delegate PCC Functions to a Deputy Mayor for Policing and Crime or arrange for any person to exercise any PCC Function subject to any statutory exclusion. The Mayor cannot delegate their PCC Functions to:
 - A constable,
 - The Mayor’s Office for Policing and Crime (as defined in the 2011 Act),
 - The Deputy Mayor for Policing and Crime appointed by the Mayor’s Office for Policing and Crime (as defined in the 2011 Act),
 - A Deputy Mayor under section 107C of the Local Democracy, Economic Development and Construction 2009 Act,
 - The Mayor of London,
 - The Common Council of the City of London,
 - Anybody which maintains a police force,
 - A member of staff of the above,
 - the Combined Authority.

- 1.5. The Mayor cannot delegate certain PCC Functions to anyone else. These Functions are:
- Issuing the Police and Crime Plan.
 - Appointing, suspending, and requiring the Chief Constable to retire or resign,
 - Calculating the PCC component council tax requirement.
- 1.6. The 2011 Act also specifies those functions which, if delegated, can only be delegated to a Deputy Mayor for Policing and Crime, namely:
- Determining police and crime objectives,
 - Attending the Police and Crime Panel (PCP),
 - Preparing an annual report to the PCP.

2. *General Principles of Delegation*

- 2.1. This Scheme of Delegation provides authorised officers with the legal authority to carry out specific PCC Functions on behalf of the Mayor. Throughout this Scheme the Mayor expects that any person carrying out PCC Functions on the Mayor's behalf, or making any related decision, will comply with statutory and regulatory requirements and act within policies and strategies approved by the Mayor and will take appropriate professional advice as necessary, particularly legal and financial advice and where appropriate, operational advice from the Chief Constable.
- 2.2. **The Mayor expects anyone exercising delegated powers under this Scheme to draw to the attention of the Office of the Mayor any issue which is likely to be regarded by the Mayor as novel, contentious or repercussive. In addition, the Mayor is ultimately accountable for the Police Fund, before any financial liability affecting the Police Fund that the Mayor might reasonably regard as novel, contentious or repercussive is incurred, prior written approval must be obtained from the Section 73 Chief Finance Officer. Delegations for such approval are set out in this scheme.**
- 2.3. It is recognised that, unless a power or PCC Function of the Mayor must, as a matter of law, be exercised personally by him; these PCC Functions may be exercised by officers that have been given delegated authority to act on the Mayor's behalf. These delegations are designed to assist the Mayor in the performance of PCC Functions.
- 2.4. For the avoidance of doubt, any of the Mayor's statutory PCC Functions may be exercised directly by the Mayor at any time, irrespective of whether those functions, or matters ancillary to them, have been delegated to any other person.
- 2.5. In the Mayor's absence or where specifically authorised to do so by the Mayor, a Deputy Mayor for Policing and Crime may exercise any of those functions (except those Functions which cannot be delegated, as set out in paragraph 1.5).

- 2.6. The Mayor, or the Deputy Mayor for Policing and Crime, if authorised to do so by the Mayor, may at any time issue specific delegations to any person to exercise any of the Mayor’s PCC Functions (unless prohibited by law).
- 2.7. No decision will be taken on behalf of the Mayor unless the relevant person has the power to do so as set out under the terms of this Scheme and in accordance with the Officer Scheme of Delegation (Appendix 1). The Monitoring Officer is responsible for overall adherence to this Scheme.
- 2.8. All decisions authorised officers make under delegated authority given to them must be recorded and be available for inspection by the Mayor.
- 2.9. This Scheme is intended to complement The Mayor’s PCC Financial Regulations and The Mayor’s PCC Contract Standing Orders and to be read in conjunction with the Chief Constable’s Scheme of Consent and any other relevant arrangements adopted by the Mayor. However, in the event of a conflict, the provisions of this Scheme have precedence.
- 2.10. The Statutory Officers of the Combined Authority have a duty consistently to monitor the effectiveness of this Scheme and to recommend changes, as necessary, to the Mayor. It will be reviewed on an annual basis by the Statutory Officers and the Chief Constable’s Chief Finance Officer^(OOB) as part of the annual review of financial management and internal control as required by The Accounts and Audit (England) Regulations 2011 and the Financial Management Code of Practice.
- 2.11. Anyone authorised to exercise delegated PCC Functions under this Scheme may make such arrangements as are necessary so as to ensure that those PCC Functions can be exercised properly by other qualified and/or experienced people and will make appropriate arrangements to cater for their absence. Those arrangements must be made known to Head of Paid Service and Monitoring Officer at the point at which they are designed to take effect.
- 2.12. To exercise the PCC Functions of their office effectively the Mayor will be provided with timely and secure access to all relevant information and data, where a lawful basis and appropriate gateway exist.

3. Definitions

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

‘The Mayor’	the person occupying the office of Mayor for West Yorkshire.
‘The Deputy Mayor for Policing and Crime’	any person appointed by the Mayor under s18 (1)(a) of the 2011 Act.

'The Combined Authority's Staff'	people employed by the Combined Authority not under the direction and control of the Constable.
'Police Civilian Staff'	people employed by the Mayor solely to assist the police force maintained by the Mayor and under the direction of control of the Chief Constable in accordance with Section 7(10)(b) of Schedule 15, Part 1 of the 2011 Act.
'Head of Paid Service'	Designated under Section 4 of the Local Government and Housing Act 1989.
'Monitoring Officer'	Designated under Section 5 of the Local Government and Housing Act 1989.
'The Combined Authority's Section 73 Chief Finance Officer'	the officer having responsibility for the proper administration of the Combined Authority in accordance with Section 73 of the Local Government Act 1985 including the financial affairs of the Mayor in relation to the discharge of PCC Functions.
'Statutory Officers'	The Combined Authority's Head of Paid Service, Monitoring Officer and Section 73 Chief Finance Officer.
'Director of Strategy, Communications and Policing'	Officer of the Combined Authority holding the role of Director of Strategy, Communications and Policing.
'Chief Constable'	the person appointed under section 2 of the 2011 Act.
'Assistant Chief Officer Finance and Business Services'	the member of Police Civilian Staff who has been nominated by the Chief Constable as being responsible for the exercise of the functions of the Chief Constable's Chief Finance Officer.
'Chief Constable's Chief Finance Officer'	the person responsible for the proper administration of the police force's financial affairs under Section (4)(1) of Schedule 2 of the 2011 Act.
'Head of Policing and Crime'	Officer of the Combined Authority holding the role of Head of Policing and Crime.

Delegations to the Deputy Mayor for Policing and Crime (If Appointed)

4. *Introduction*

- 4.1 The Mayor may appoint a Deputy Mayor for Policing and Crime to exercise his/her functions (except those which cannot be delegated, listed in paragraph 1.5). The Deputy Mayor for Policing and Crime can give consent to an officer with sub-delegated authority to carry out any PCC Functions (with the exception of those listed in paragraph 1.6) in his/her absence (defined as leave or illness).

5. *Delegations*

- 5.1 Subject to the overriding requirements of paragraph 2.2, the Deputy Mayor for Policing and Crime is authorised to exercise or perform any or all of the PCC Functions of the Mayor, with the exception of those listed at paragraph 1.5, in the Mayor's absence or as authorised by the Mayor from time to time.

6. **See Appendix 1 – Officer Scheme of Delegation**

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Appendix 1 – Officer Scheme of Delegation

Reference	Function	Restrictions/ conditions	Consultation requirements	Delegation	Sub-delegation	Further sub- delegation
1.	To assist in the preparation of police and crime plan		In consultation with the Chief Constable	Head of Paid Service	<i>Director of Strategy, Communications and Policing</i>	<i>Head of Policing and Crime</i>
2.	To assist in the production of the annual report			Head of Paid Service	<i>Director of Strategy, Communications and Policing</i>	<i>Head of Policing and Crime</i>
3.	To authorise the defence, withdrawal or settlement of any claims, or participate in any legal proceedings			Head of Legal and Governance Services	<i>Head of Policing and Crime</i>	
4.	To make decisions in respect of all litigation			Head of Legal and Governance Services	<i>Head of Policing and Crime</i>	
5.	To sign any indemnity on behalf of the Mayor in respect of PCC Functions		In consultation with the CFO if significant financial implications could arise not covered by insurance arrangements	Head of Legal and Governance Services	<i>Head of Policing and Crime</i>	
6.	To certify, sign or execute			Head of Legal and	<i>Head of Policing and</i>	<i>Governance</i>

	<p>and to authenticate the seal of the Combined Authority in relation to PCC Functions on all legal documents (or to authorise agency arrangements for the same) necessary to implement decisions made by</p> <ul style="list-style-type: none"> • the Mayor • on the Mayor's behalf • contracts submitted by the Y and H procurement team up to threshold in Y and H CSOs 			Governance Services	<i>Crime</i>	<i>Manager</i>
7.	To exercise responsibility for the Mayor's expenditure and income in respect of PCC Functions	Except for those resources that are directly allocated to the Chief Constable	In consultation with the CFO	Head of Paid Service	<i>Director of Strategy, Communications and Policing</i>	<i>Head of Policing and Crime</i>
8.	To determine and respond to complaints/conduct matters against the Mayor and Deputy Mayor for Policing and Crime (if a Combined Authority Member)	Not applicable to complaints /conduct matters in respect of Deputy Mayor for Policing and Crime where a staff member of staff		Monitoring Officer		

9.	To make decisions in dealing with complaints and conduct matters against the Chief Constable		In consultation with the Mayor/ Deputy Mayor for Policing and Crime (where possible and appropriate)	Head of Paid Service	<i>Director of Strategy, Communications and Policing</i>	<i>Head of Policing and Crime</i>
10.	To oversee the workings of the complaints system and the Mayor's responsibilities for police complaints as set out in the Policing and Crime Act 2017	Save for the exercise of the power granted to local policing bodies under section 15 of the Police Reform Act 2002 (as inserted by paragraph 7 of Schedule 14 to the Police Reform and Social Responsibility Act 2011, which is reserved to the Mayor. And, save for matters specifically delegated to the Monitoring Officer		Head of Paid Service	<i>Director of Strategy, Communications and Policing</i>	<i>Head of Policing and Crime</i>

11.	To authorise any member of Staff to prosecute or defend or to appear in proceedings under s223 LGA 1972			Head of Legal and Governance Services		
12.	To determine where a matter falls to the Mayor/Deputy Mayor for Policing and Crime, where it is urgent <u>or</u> where the Mayor/Deputy Mayor for Policing and Crime are absent or where they have been given specific authority to act.	Other than those matters described in s18 (7) of the Act. Any matter so determined to be reported to Mayor/Deputy for Mayor Policing and Crime as soon as practicable.	In consultation with CFO (where appropriate)	Head of Paid Service	<i>Director of Strategy, Communications and Policing</i>	<i>Head of Policing and Crime</i>
13.	To review complaints of maladministration and to approve provision of any remedy, financial or otherwise			Monitoring Officer		
14.	To administer the Independent Custody Visiting Scheme			Head of Paid Service	<i>Director of Strategy, Communications and Policing</i>	<i>Head of Policing and Crime</i>
15.	To approve any requests for financial assistance to		In consultation with the CFO	Head of Paid Service	<i>Director of Strategy, Communications and</i>	<i>Head of Policing and Crime</i>

	police officers and Police Civilian Staff involved in legal proceedings or inquests				<i>Policing</i>	
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