

# Part 3

## Section 3.2 – The Mayor’s Police and Crime Commissioner Functions

### 1. Scheme of Consent to the Chief Constable

#### *Introduction*

- 1.1 The Chief Constable is responsible for maintaining the Queen's Peace and employs the Force's officers and staff. The Chief Constable holds office under the Crown but is appointed by the Mayor.
- 1.2 The 2011 Act confers wide general powers on a Chief Constable. They may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of Chief Constable.
- 1.3 This Scheme of Consent sets out the extent of, and any conditions attaching to, the Mayor’s consent to the Chief Constable’s exercise of the powers to enter into contracts or agreements or acquire or dispose of property (other than land).
- 1.4 Consent refers to the provision of approval or agreement, particularly and especially after due and thoughtful consideration. Transactions entered into following consent by the Mayor to the Chief Constable will be in the Chief Constable’s own name as a separate legal entity, as opposed to the name of the Mayor (as would be the case if the Chief Constable was given delegated authority).
- 1.5 This is part of a wider suite of governance documentation comprising not only this Scheme of Consent but also the Mayor’s PCC Financial Regulations the Mayor’s PCC Contract Standing Orders, and Schemes of Delegation, for both the Mayor and the Chief Constable. For services which are provided jointly to both the Mayor and the Chief Constable, a Memorandum of Understanding is in place setting out the agreed arrangements for service delivery.
- 1.6 The Chief Constable is accountable in law for the exercise of police powers, and to the Mayor for the delivery of efficient and effective policing, management of resources and expenditure by the police force. At all times the Chief Constable, his constables and staff, remain

operationally independent in the service of the communities that they serve.

- 1.7 In becoming a separate corporation sole, the 2011 Act allows the Chief Constable to operate independently in specific areas, and he has specific legal responsibility for:
- All employment matters relating to Police Officers and Police Staff under his control including temporary staff. This includes the rights, powers, duties and liabilities of the employer under or in connection with the contract of employment e.g. PAYE and pension arrangements within the Local Government Pension Scheme,
  - Entering into collaboration agreements under S22A of the Police Act 1996 with other Chief Constables, other policing bodies and partners that improve the efficiency or effectiveness of policing, and with the agreement of their respective Policing Bodies,
  - Making Covert payments.
- 1.8 The legislation prohibits the Chief Constable from performing some functions, including:
- Treasury management, borrowing and general overdraft,
  - Purchase and Disposal of Land,
  - Procurement of 'and crime' activities as a Mayor PCC Function.

### *Consents*

- 1.9 At the present time the Mayor does not consent to the Chief Constable:
- entering into contracts and other agreements as a corporation sole
  - acquiring or disposing of property.
- 1.10 The Mayor does consent to the Chief Constable entering into:
- collaboration agreements to which the Mayor is party,
  - memorandum of understandings regarding operational matters,
  - confidentiality agreements,
  - data processing contracts,
  - Indemnities provided that where the giving of an indemnity could have significant financial implications not covered by the Commissioner's insurance policies, such indemnity shall be signed only with the approval of the Mayor's Section 73 Chief Finance Officer,
  - contracts for funding of Police Officers/Staff and Police Community Support Officers,
  - contracts for ad hoc sponsorship such as motor vehicles and overtime,

- media agreements,
- agreements for Special Policing Services, and,
- other ad hoc contracts and agreements with the specific consent of the Commissioner's Section 73 Chief Finance Officer.

## **2. Role of the Assistant Chief Officer (ACO) Business Operations (Section 73 Chief Finance Officer)**

### *Introduction*

- 2.1 The ACO is the financial adviser to the Chief Constable and has a statutory responsibility to carry out the functions of the Section 73 Chief Finance Officer under section 151 of the Local Government Act 1972, and s114 of the Local Government Finance Act 1988, ensuring that the financial affairs of the Chief Constable are properly administered having regard to their probity, legality and appropriate standards. Designated staff of the ACO are authorised to undertake the functions of that officer due to absence.

### *Delegations*

#### *Property Matters*

- 2.2 Except where otherwise provided in this Scheme and with the exception of the right to buy and sell real property, to exercise all powers, rights and duties in respect of real and personal property in the ownership of the Mayor.
- 2.3 Notwithstanding paragraph 1 above, after consultation with the Head of Legal and Governance Services and the Mayor's Section 73 Chief Finance Officer, to enter into leases for land, buildings and equipment.
- 2.4 After consultation with the Mayor, to determine sums to be paid from the Police Property Fund towards charitable purposes.

#### *Financial Matters*

- 2.5 To exercise responsibility for force expenditure (in other words that part of the police fund which is provided to the Chief Constable) provided that such responsibility shall be exercised in accordance with the law and with the Mayor's PCC Financial Regulations and Contract Standing Orders and any relevant statutory guidance and codes of

practice.

- 2.6 Where the approval of the Mayor is not required by Financial Regulations or this Scheme and within the limitations prescribed by Financial Regulations, and in pursuit of the policies and objectives agreed with the Mayor and reflected in the West Yorkshire Police and Crime Plan.
- 2.7 Where the approval of the Mayor is not required by Contract Standing Orders or this Scheme and within the limitations prescribed by Contract Standing Orders and in pursuit of the policies and objectives agreed with the Mayor and reflected in the West Yorkshire Police and Crime Plan
  - to approve contract exemptions,
  - to approve all requests to go out to tender,
  - to approve the award of contracts and to sign contracts,
  - to approve all variations, extensions, or terminations of contracts.
- 2.8 To approve (subject expressly to the overarching requirements of para 2.2) the writing off of any debt, subject to the agreement of the Mayor's Section 73 Chief Finance Officer in respect of any debt in excess of £10,000.
- 2.9 To accept income, grants, offers of sponsorship and gifts for police purposes on behalf of the Mayor provided that decisions taken in this regard are in accordance with the law and with any guidance or policy which the Mayor may from time to time determine.
- 2.10 To determine the rates of charges for policing services to external bodies and give approval to charge for or not to charge for such services in accordance with the law and with any guidance or policy which the Mayor may from time to time determine.
- 2.11 In so far as delegation from the Mayor may be required, to sign on behalf of the Chief Constable any indemnity required to enable the Chief Constable or to exercise any of the Chief Constable's functions, provided that where the giving of an indemnity could have significant financial implications not covered by the Mayor's insurance policies, such indemnity shall be signed only with the approval of the Mayor's Section 73 Chief Finance Officer.

### 3. Role of the Head of Legal Services

#### *Introduction*

- 3.1 Under the Memorandum of Understanding, both the Mayor and the Chief Constable will have access to competent and independent legal advice and representation such as to allow them to perform and exercise their respective functions and powers.

#### *Delegations*

- 3.2 The Mayor has agreed with the Chief Constable that the Head of Legal Services (or, in the absence of the Head of Legal Services, the Deputy Head of Legal Services) is authorised to settle any claims against the Chief Constable up to the following thresholds:
- (a) Public liability and Employment Tribunal claims - £25,000,
  - (b) Employer's Liability claims - £30,000,
  - (c) Road Traffic Collision claims - £100,000.
- 3.3 For settlements above these thresholds, the Mayor has agreed with the Chief Constable that the Deputy Chief Constable is authorised to settle any claims against the Chief Constable provided such claims are not novel, contentious or repercussive and subject to any such settlements being reported to the Good Governance Group.
- 3.4 The Mayor has also agreed with the Chief Constable that the Head of Legal Services can deal with, settle and defend all claims made under the Riot Damages Act 2016.
- 3.5 The Head of Legal Services may sign and seal any documents as agent to the Combined Authority in respect of the Mayor's PCC functions when authorised to do so.

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