

Part 2 - Articles

Article 5 - Police and Crime Commissioner (PCC) Functions

The Police Area

- 5.1 The Police Area of West Yorkshire comprises the metropolitan districts of Bradford, Calderdale, Kirklees, Leeds and Wakefield.¹ It is coterminous with the Combined Authority's Area.
- 5.2 There is no Police and Crime Commissioner (PCC) for the Police Area².

The Mayor's Exercise of PCC Functions

- 5.3 The Mayor exercises PCC Functions in relation to the Police Area³ and is treated as a PCC for the purposes of all PCC enactments (subject to some modifications and exclusions).⁴
- 5.4 A person elected to the office of Mayor may not exercise PCC Functions, unless that person has made the specified declaration to the appropriate officer⁵.
- 5.5 The PCC Functions exercised by the Mayor are:⁶
- functions conferred by Section 1 of the Police Reform and Social Responsibility Act 2011,
 - functions relating to community safety and crime prevention⁷, and
 - other functions conferred by the 2011 Act and other enactments⁸.

¹ Section 1 of the Police Act 1996 and paragraph 1 of Schedule 1 of the 1996 Act.

² The term of office for the PCC for West Yorkshire continued until the 10 May 2021 - Article 34 of the West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021.

³ Article 34(1) of the 2021 Order. These functions are any functions conferred on PCCs by or under Part 1 of the Police Reform and Social Responsibility Act 2011 or any other Act (Section 107F of the Local Democracy and Construction Act 2009). PCC Functions are functions of the Combined Authority exercisable by the Mayor acting individually or by a person acting under arrangements made by the Mayor – Section 107F of the 2009 Act.

⁴ Article 35 of the 2021 Order.

⁵ Section 70 of the 2011 – see further Article 12 (Officers).

⁶ Section 1 of the 2011 Act.

⁷ Conferred by Chapter 3 of the 2011 Act.

⁸ These include in relation to the police complaints system - Police Reform Act 2002 and the Police Act 1996 Act.

5.6 The Mayor must:⁹

- secure the maintenance of the West Yorkshire Police Force (the Force) for the Police Area¹⁰, and
- secure that the Force is efficient and effective.

5.7 The Mayor may do anything which is calculated to facilitate or is conducive or incidental to the exercise of PCC Functions¹¹; in respect of contracts, property and borrowing see further below (Finance, Contracts, Legal and Audit arrangements).

5.8 When exercising PCC Functions, the Mayor must have regard to:

- the Police and Crime Plan¹² - see further below (Police and Crime Plan)
- the Policing Protocol issued under Section 79 of the 2011 Act,¹³
- the views of people in the Police Area about policing,¹⁴
- any report or recommendations made by the Police and Crime Panel on the annual report for the previous year¹⁵ - see further below (annual report),
- any financial code of practice issued by the Secretary of State,¹⁶
- any guidance issued by the College of Policing in relation to individuals employed by the Combined Authority wholly or partly in relation to the Mayor's PCC Functions, or who provide services in pursuance of contractual arrangements who can be expected to have frequent contact with members of the public.¹⁷

The Chief Constable

5.9 The Force has a Chief Constable¹⁸, appointed by the Mayor.¹⁹

5.10 The Mayor must notify the Police and Crime Panel of the proposed appointment of a Chief Constable, which will review the appointment²⁰ - see further below (Police and Crime Panel).

⁹ Section 1(6) of the 2011 Act.

¹⁰ Section 2 of the Police Act 1996.

¹¹ Paragraph 14 of Schedule 1 to the 2011 Act.

¹² Section 8 of the 2011 Act. The Chief Constable must also have regard to the Plan when exercising their functions.

¹³ Policing Protocol Order 2011/2744 and Section 79 of the 2011 Act; the Chief Constable and the Police and Crime Panel must also have regard to the Protocol, as must officers of the Combined Authority deployed wholly or partly in relation to the Mayor's PCC Functions, the constables and staff of the Force – paragraph 5 of the Protocol.

¹⁴ Section 17(1) of the 2011 Act.

¹⁵ Section 17(2) and (3) of the 2011 Act.

¹⁶ Section 17(4) of the 2011 Act.

¹⁷ Section 53E of the 1996 Act.

¹⁸ Section 2 of the 2011 Act.

¹⁹ Section 2 and Section 38 of the 2011 Act, and in accordance with Part 1 of Schedule 8 of the 2011 Act.

²⁰ In accordance with Schedule 8 of the 2011 Act.

- 5.11 The Chief Constable is a corporation sole.²¹ The functions of the Chief Constable are set out in the 2011 Act and other enactments²².
- 5.12 The Chief Constable may do anything which is calculated to facilitate or is conducive or incidental to, the exercise of the Chief Constable's functions²³; in respect of contracts, property and borrowing see further below (Finance, Contracts, Legal and Audit arrangements).
- 5.13 The Force must have one or more Deputy Chief Constables, and the Chief Constable must consult the Mayor before increasing the number of Deputy Chief Constables or appointing a person to be Deputy Chief Constable.²⁴
- 5.14 The Force must have one or more Assistant Chief Constables, and the Chief Constable must consult the Mayor before appointing a person to be an Assistant Chief Constable.²⁵
- 5.15 The Chief Constable must appoint a chief finance officer and may appoint such other civilian staff as the Chief Constable considers appropriate²⁶.
- 5.16 The Force and the civilian staff of the Force are under the direction and control of the Chief Constable²⁷. The Chief Constable must exercise this power of direction and control in such a way as is reasonable to assist the Mayor to exercise PCC Functions. The Chief Constable is operationally independent, and the Mayor must not fetter the operational independence of the Force and the Chief Constable²⁸. The Chief Constable retains responsibility for operational matters and is the operational voice of policing in the Police Area²⁹, and remains politically independent of the Mayor.³⁰
- 5.17 The Chief Constable is accountable to the law for the exercise of police powers, and to the Mayor for the exercise of:
- the functions of the Chief Constable, and
 - the functions under the direction and control of the Chief Constable³¹.

²¹ Paragraph 2 of Schedule 2 of the 2011 Act. This means the office of the Chief Constable constitutes a separate legal personality to the person holding it, and to the Combined Authority.

²² Section 2 of the 2011 Act.

²³ Paragraph 7 of Schedule 2 of the 2011 Act.

²⁴ Section 39 of the 2011 Act, subject to regulations.

²⁵ Section 40 of the 2011 Act, subject to regulations. The Chief Constable must also consult the Mayor when designating an appropriate Deputy Chief Constable and Assistant Chief Constable to exercise the Chief Constable's functions when the Chief Constable is unable to – Section 41 of the 2011 Act.

²⁶ Schedule 2 of the 2011 Act.

²⁷ Subject to any provision included in a collaboration agreement – Section 2(6) of the 2011 Act.

²⁸ Policing Protocol paragraph 18.

²⁹ Policing Protocol paragraphs 23 and 26.

³⁰ Policing Protocol paragraph 23.

³¹ In particular, the Mayor must hold the Chief Constable to account for those duties set out in Section 1(8) of the 2011 Act.

- 5.18 The Chief Constable must give the Mayor information on policing matters which the Mayor requires.³²
- 5.19 The Mayor may suspend the Chief Constable from duty or call upon the Chief Constable to resign or retire³³, subject to scrutiny by the Police and Crime Panel – see further below (Police and Crime Panel). The Chief Constable must retire or resign if called upon to do so by the Mayor.³⁴

Deputy Mayor for Policing and Crime

- 5.20 The Mayor may appoint a Deputy Mayor for Policing and Crime for the Police Area³⁵.
- 5.21 The Mayor cannot appoint as the Deputy Mayor for Policing and Crime:
- the Deputy Mayor, nor
 - any other person listed in Section 18(6) of the Police Reform and Social Responsibility Act 2011.³⁶
- 5.22 The Mayor must notify the Police and Crime Panel of any proposed appointment of a Deputy Mayor for Policing and Crime³⁷ – see further below (Police and Crime Panel). The Mayor may accept or reject the recommendation of the Police and Crime Panel as to whether or not the candidate should be appointed.³⁸
- 5.23 The term of office of the Deputy Mayor for Policing and Crime must end no later than the third day after the day of the poll at an election for the return of the Mayor.³⁹
- 5.24 The Deputy Mayor for Policing and Crime is a member of staff of the Combined Authority unless they are a Combined Authority Member⁴⁰.
- 5.25 The Mayor may arrange for the Deputy Mayor for Policing and Crime to exercise any PCC Function, subject to exceptions – see further below (Mayor's arrangements for PCC Functions).

³² Section 36 of the 2011 Act.

³³ Section 2 and Schedule 8 of the 2011 Act.

³⁴ Section 38(4) of the 2011 Act, subject to Schedule 8, and relevant regulations.

³⁵ Section 18 of the 2011 Act, modified by the 2021 Order and subject to paragraph 8(2) of Schedule 1 to the 2011 Act.

³⁶ Section 18(3) of the 2011 Act modified by the 2021 Order.

³⁷ In accordance with Schedule 1 of the 2011 Act.

³⁸ Paragraph 12 of Schedule 1 of the 2011 Act.

³⁹ Paragraph 8 of Schedule 1 of the 2011 Act. Any appointment will end when following an election held to fill a vacancy in the officer of the appointing Mayor, the person elected makes and delivers a declaration under Section 70 of the 2011 Act – paragraph 8(3A) of Schedule 1 of the 2011 Act.

⁴⁰ Section 18(10) of the 2011 Act modified by the 2021 Order. Section 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the Deputy Mayor for Policing and Crime – Paragraph 8 of Schedule 1 of the 2011 Act.

- 5.26 The Deputy Mayor for Policing and Crime may arrange for any other person (other than a person listed in Section 18(6) of the 2011 Act) to exercise any PCC Function which:
- is exercisable by the Deputy Mayor for Policing and Crime, and
 - is not
 - determining police and crime objectives,
 - attending a meeting of a Police and Crime Panel when required by the Panel to do so,
 - preparing an annual report to the Police and Crime Panel.
- 5.27 The Deputy Mayor for Policing and Crime's arrangements for PCC Functions are set out in Part 3 of the Constitution.

The Mayor's Arrangements for PCC Functions

- 5.28 The Mayor may arrange for the **Deputy Mayor for Policing and Crime** to exercise any PCC Functions, except:⁴¹
- a function which the Mayor has under or by virtue of Part 2 of the Police Reform Act 2002, or
 - issuing the Police and Crime Plan,
 - appointing or suspending the Chief Constable, or calling on the Chief Constable to retire or resign, or
 - calculating the PCC component council tax requirement.
- 5.29 The Mayor may arrange for **any other person** (other than a person listed in Section 18(6) of the 2011 Act) to exercise any PCC Function which is **not**:
- issuing the Police and Crime Plan,
 - determining police and crime objectives,
 - attending a meeting of a Police and Crime Panel when required by the Panel to do so,
 - preparing an annual report to the Police and Crime Panel.
 - appointing or suspending the Chief Constable, or calling on the Chief Constable to retire or resign, or
 - calculating the PCC component council tax requirement.
- 5.30 The Mayor may delegate the exercise of performance of powers and duties conferred or imposed on the Mayor by or under Part 2 of the Police Reform Act 2002 to any person⁴².
- 5.31 The Mayor's arrangements for PCC Functions are set out in Part 3 of the Constitution (Responsibility for Functions).

⁴¹ Section 18 of the 2011 Act.

⁴² In accordance with Regulation 50 of the Police (Complaints and Misconduct) Regulations 2020/2.

The Police and Crime Panel - General

- 5.32 The local authorities which the Police Area covers, (that is, the Constituent Councils), must establish and maintain a **Police and Crime Panel** for the Police Area, and make the panel arrangements for the Police and Crime Panel⁴³.
- 5.33 The Police and Crime Panel is a **joint committee**⁴⁴ appointed by the Constituent Councils; it is not a committee of the Combined Authority. The Police and Crime Panel makes its rules of procedure⁴⁵.
- 5.34 The Mayor, a Constituent Council Combined Authority Member or a Substitute Constituent Council Combined Authority Member may not be a member of the Police and Crime Panel⁴⁶.
- 5.35 The Police and Crime Panel may require the Mayor, Deputy Mayor for Policing and Crime, members of staff of the Combined Authority deployed wholly or partly in relation to the Mayor's PCC Functions, and any Combined Authority Member who exercises a PCC Function under arrangements made by the Mayor to attend a meeting. This Chief Constable may also be requested to attend with the Mayor or Deputy Mayor for Policing and Crime.⁴⁷
- 5.36 The Panel may also require the Mayor to respond in writing to any report or recommendation of the Police and Crime Panel to the Mayor.⁴⁸
- 5.37 The Mayor must provide the Police and Crime Panel with any information which the Police and Crime Panel may reasonably require to carry out its functions, (subject to exceptions), and may provide any other information to it which the Mayor thinks appropriate⁴⁹.
- 5.38 For further details about the panel arrangements, membership and proceedings of the Police and Crime Panel see ([West Yorkshire Police and Crime Panel \(westyorkshire-pcp.gov.uk\)](http://westyorkshire-pcp.gov.uk))

Police and Crime Panel – functions

- 5.39 The Police and Crime Panel has **oversight functions** in relation to the Mayor's exercise of PCC Functions.⁵⁰ The Police and Crime Panel does not scrutinise the Chief Constable.⁵¹

⁴³ Paragraph 3 of Schedule 6 of the 2011 Act.

⁴⁴ Paragraph 4 of Schedule 6 of the 2011 Act.

⁴⁵ Paragraph 28 of Schedule 6 of the 2011 Act.

⁴⁶ Paragraph 21 of Schedule 6 of the 2011 Act. Nor may a member of staff of the Combined Authority be a co-opted member of the Police and Crime Panel (paragraph 21(1)(a)).

⁴⁷ Section 29 of the 2011 Act.

⁴⁸ Section 29(3) of the 2011 Act.

⁴⁹ Section 13 of the 2011 Act.

⁵⁰ Schedule 5C para 4.

⁵¹ Paragraph 24 of the Policing Protocol; the accountability of the Chief Constable is to the Mayor, not to the Police and Crime Panel.

- 5.40 The functions of the Police and Crime Panel must be exercised with a view to supporting the effective exercise of PCC Functions.⁵²
- 5.41 The **Police and Crime Panel's functions** include reviewing:⁵³
- the draft **Police and Crime Plan** or draft variation sent by the Mayor,
 - the Mayor's **annual report** on PCC Functions – see further below (annual report),
 - any proposed **appointment of the Deputy Mayor of Policing and Crime**,
 - the proposed amount of the **PCC component** of the Mayor's precept, which the Police and Crime Panel may veto⁵⁴ - see further below (finance),
 - the proposed **appointment of a Chief Constable**⁵⁵, which the Police and Crime Panel may veto, subject to holding a confirmation hearing, and
 - any **suspension or removal of the Chief Constable**, subject to holding a scrutiny hearing⁵⁶.
- 5.42 In as far as the Police and Crime Panel is not otherwise required to do so, the Police and Crime Panel must:
- **review and scrutinise decisions made or other action taken** by the Mayor, the Deputy Mayor for Policing and Crime and any other person who exercises any function of the Mayor under arrangements made by the Mayor, and
 - **make reports and recommendations to the Mayor** in connection with the exercise of PCC Functions.
- 5.43 The Police and Crime Panel may **suspend the Mayor**, so far as acting in the exercise of PCC Functions, in specified circumstances⁵⁷. The Police and Crime Panel must appoint a person to exercise the PCC Functions ("Acting Commissioner") if the Mayor is suspended from the exercise of PCC Functions⁵⁸.
- 5.44 The Police and Crime Panel has functions in relation to the **misconduct of the Mayor and Deputy Mayor for Policing and Crime**⁵⁹ – see further below (Conduct). Subject to exceptions the Police and Crime Panel may delegate these functions to the Monitoring Officer.⁶⁰

⁵² Section 28 of the 2011 Act.

⁵³ Section 28 of the 2011 Act.

⁵⁴ In accordance with Schedule 5 of the 2011 Act.

⁵⁵ In accordance with Schedule 8 of the 2011 Act.

⁵⁶ In accordance with Schedule 8 of the 2011 Act.

⁵⁷ See further Section 30(1) of the 2011 Act.

⁵⁸ Section 62 of the 2011 Act, modified by the 2021 Order. The Acting Commissioner must be a member of staff of the Combined Authority deployed wholly or partly in relation to PCC Functions, or the Deputy Mayor for Policing and Crime; the Deputy Mayor may not be appointed – Section 62(2).

⁵⁹ Under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012/62, made in accordance with Schedule 7 of the 2011 Act and Section 31 of the 2011 Act.

⁶⁰ Regulation 7 of the 2012/62 Regulations.

The Police and Crime Plan

- 5.45 The Mayor may, at any time issue, or vary, a police and crime plan⁶¹. In issuing or varying a police and crime plan, the Mayor must have regard to the strategic policing requirement.
- 5.46 The Police and Crime Plan sets out the following:
- the Mayor's police and crime objectives⁶²,
 - the policing of the Police Area which the Chief Constable is to provide,
 - the financial and other resources which the Mayor is to provide to the Chief Constable for the Chief Constable's functions,
 - the means by which the Chief Constable will report to the Mayor on the Chief Constable's provision of policing,
 - the means by which the Chief Constable's performance in providing policing will be measured,
 - the services to be provided to secure crime and disorder reduction or for victim support, and any grants which the Mayor is to make in connection with such services⁶³.
- 5.47 When issuing or varying the Police and Crime Plan, the Mayor must follow statutory procedures, including consultation with the Chief Constable and sending the draft or variation to the Police and Crime Panel⁶⁴ – see further the Budget and Policy Procedure Rules.
- 5.48 The Mayor must keep the Police and Crime Plan under review⁶⁵.

Conduct of the Mayor and Deputy Mayor of Policing and Crime

- 5.49 The Mayor and any Deputy Mayor of Policing and Crime who is a Combined Authority Member must comply with the Members' Code of Conduct. Serious complaints and conduct matters relating to them must be passed to the Director General of the Independent Office for Police Conduct.
- 5.50 See further Article 9 – Audit and Ethical Arrangements.

Mayor's Accountability to the Secretary of State

- 5.51 The Secretary of State may require Her Majesty's Inspectors of Constabulary to inspect the Force, and the Mayor may at any time request an inspection of

⁶¹ Section 5 of the 2011 Act. The Mayor must issue a Police and Crime Plan within the financial year in which each election for the return of the Mayor is held, as soon as practicable after the Mayor takes office.

⁶² These are the Mayor's objectives for the policing of the Police Area, crime and disorder reduction and the Force's discharge of its national or international functions – Section 7(2) of the 2011 Act.

⁶³ Under Section 143 of the Anti-social Behaviour, Crime and Policing Act 2014.

⁶⁴ Section 5(6) of the 2011 Act.

⁶⁵ In accordance with Section 5(9) of the 2011 Act.

the Force.⁶⁶ The inspectors must arrange for any report prepared further to any inspection to be published.⁶⁷

5.52 The Mayor must comply with any directions from the Secretary of State to take specified measures:

- in relation to the Force, where the Secretary of State is satisfied that the whole or any part of the Force is failing to discharge any of its functions in an effective manner⁶⁸, or
- where the Secretary of State is satisfied that the Mayor is failing to discharge PCC Functions in an effective manner.⁶⁹

5.53 The Secretary of State has power to direct the Mayor in relation to setting a minimum budget – see further Article 14 (Finance, Contracts and Legal).

5.54 The Mayor may enter into agreements with the Secretary of State with respect to the level of performance to be achieved by the Force in respect of any of its **national or international functions**. If the Secretary of State is of the opinion that the Force is not performing any or all of these functions to the specified standard or no satisfactory agreement is in force, the Secretary of State may direct the Mayor to take specified measures. The Mayor must comply with any directions given by the Secretary of State⁷⁰.

Annual Report⁷¹

5.55 The Mayor must produce and publish an annual report on:

- the exercise of the PCC Functions in each financial year, and
- the progress made in the financial year in meeting the police and crime objectives in the Mayor's Police and Crime Plan.

5.56 The annual report must be reviewed by the Police and Crime Panel⁷², who must ask the Mayor questions about the report at a public meeting and make a report or recommendation on it to the Mayor.

Information for the Public

5.57 The Mayor must publish specified information for the public – see further the Access to Information Rules in Part 4 of the Constitution.

⁶⁶ Section 54 of the 1996 Act, applied to the Mayor by paragraph 11 of Schedule 5C of the 2009 Act.

⁶⁷ In accordance with S55 of the 1996 Act.

⁶⁸ In accordance with Section 40 of the Policing Act 1996, applied to the Mayor by paragraph 11 of Schedule 5C of the 2009 Act.

⁶⁹ In accordance with Section 40A of the 1996 Act, applied to the Mayor by paragraph 11 of Schedule 5C of the 2009 Act.

⁷⁰ Section 96A of the 1996 Act.

⁷¹ Section 12 of the 2011 Act.

⁷² In accordance with Section 12 and 28(4) of the 2011 Act.

- 5.58 The Mayor may also provide information about the exercise of PCC Functions, and the Chief Constable's functions⁷³, or publish or require the Chief Constable to publish information on policing matters provided to the Mayor by the Chief Constable.⁷⁴

Finance, Contracts, Legal and Audit Arrangements

- 5.59 The Mayor is the recipient of all funding related to policing and crime reduction, including the government grant, the PCC component and other sources of income, and all funding for the Force comes through the Mayor. How this money is allocated is a matter for the Mayor in consultation with the Chief Constable, or in accordance with any grant terms. The Chief Constable provides professional advice and recommendations⁷⁵. See further Article 14 (Finance, Contracts and Legal) and the Budget and Policy Procedure Rules in Part 4 of the Constitution.
- 5.60 The Mayor must keep a Police Fund⁷⁶ – see further Article 14 (Finance, Contracts and Legal).
- 5.61 The Mayor's power to do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of PCC Functions⁷⁷ includes:⁷⁸
- entering into contracts and other agreements (whether legally binding or not),
 - acquiring and disposing of property (including land), and
 - borrowing money⁷⁹
- 5.62 The Chief Constable power to do anything which is calculated to facilitate or is conducive or incidental to, the exercise of the Chief Constable's functions⁸⁰ includes:
- entering into contracts and other agreements (whether legally binding or not) but only with the **consent** of the Mayor⁸¹, and
 - acquiring and disposing of property, apart from land, but only with the **consent** of the Mayor.

⁷³ Section 11 of the 2011 Act.

⁷⁴ In accordance with Section 36 of the 2011 Act.

⁷⁵ Policing Protocol paragraph 16.

⁷⁶ Section 21 of the 2011 Act.

⁷⁷ Paragraph 14 of Schedule 1 of the 2011 Act.

⁷⁸ Subject to any other provisions of the 2011 Act or other enactment – Paragraph 14 of Schedule 1 of the 2011 Act.

⁷⁹ See further Article 14 (Finance, Contracts and Legal) in relation to borrowing powers under the Local Government Act 2003.

⁸⁰ Paragraph 7 of Schedule 2 of the 2011 Act.

⁸¹ The Chief Constable does not require the consent of the Mayor in relation to contracts or agreements relating to civilian staff – Paragraph 7(4) of Schedule 2 of the 2011 Act.

See further Article 9 (Audit and Ethical Arrangements), Article 14 (Finance, Contracts and Legal) and the Budget and Policy Procedure Rules in Part 4 of the Constitution.

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