

**Report of the PCC Chief Executive & Monitoring Officer to the Chair and Members of the Joint Audit Committee**

**2 October 2020**

**Report Author: Simon Dennis, Chief Executive & Monitoring Officer**

**Status: For information**

**Annual Report of the Monitoring Officer 1 April 2019 to 31 March 2020**

1. **Purpose**
   1. To report to the Joint Audit Committee on the exercise of the statutory function of Monitoring Officer for the Police and Crime Commissioner during the preceding financial year.
   2. The statutory role of the Monitoring Officer is to address any actual or potential unlawfulness or maladministration arising from a proposal, decision or omission of the Police and Crime Commissioner. In strict legal terms, it is the duty of the Monitoring Officer to prepare a formal report on any such matter to the Police & Crime Panel.
   3. The Monitoring Officer role must, by operation of law, be held by the Chief Executive.
   4. In practice, the role requires the Chief Executive to ensure, in close consultation with the Commissioner’s Chief Finance Officer, that there is compliance with the organisation’s regulatory rules (as set out in the consolidated Code of Corporate Governance) and ensure that he is informed about – and is in a position to influence - matters of integrity, professional ethics and propriety in all aspects of the exercise of Police and Crime Commissioner business, including ensuring the exercise of the Commissioner’s duty to maintain an efficient and effective police force.
2. **Recommendations**
   1. Members are asked to:
      1. Note the compliance by the Commissioner with the arrangements noted in previous annual reports of the Monitoring Officer, for example the Register of Gifts & Hospitality.
      2. Note that there have been no formal reports to the Police & Crime Panel under s5 Local Government & Housing Act 1989, in the period covered by this report.
      3. Note that in the same period the following have arisen:
         1. A number of ongoing matters raised during the year under the Commissioner’s Whistleblowing Policy which have continued to receive my attention.
         2. Complaint/conduct cases have been processed in relation to officers of the rank of Chief Constable, brief details of which are discussed later in this report.
         3. No complaints against OPCC staff dealt with by the Monitoring Officer.
3. **Reporting Conventions**
   1. This report summarises Monitoring Officer activity for the period 1 April 2019 to 31 March 2020.
   2. On this occasion it contains an addendum dealing with priority matters arising in the current financial year.
4. **Overall Approach to the Role of Monitoring Officer**
   1. As Members will know, I take an active approach to the role of Monitoring Officer, construing the role broadly with a particular focus on (a) ensuring by way of advice and support that the Commissioner’s decisions are lawful and rigorous, whether they are taken by the Commissioner or by others on his behalf; and (b) keeping myself informed about and involved in the management of corporate standards and risk issues, so as to be positioned to intervene proactively in such matters on the Commissioner’s behalf and keep the Commissioner advised as appropriate.
   2. The core duty of the Police & Crime Commissioner is to secure that Cleveland has an effective and efficient police force.[[1]](#footnote-1)
   3. The following extract is taken from the Association of Policing & Crime Chief Executives (APAC2E) Statement on the Role of the Chief Executive and Monitoring Officer to the Police & Crime Commissioner:

*The CEO has duties in connection with any relevant decision or omission of the PCC in connection with the exercise of the PCC’s statutory functions. However, it is likely that the majority of policing decisions will be taken by the CC, or officers and staff under their direction and control or employed by them, as envisaged by the Policing Protocol Order.*

*Given that ultimate accountability for the efficiency and effectiveness of the police force rests with the PCC, but also given the operational independence of the CC, the scope of the MO function extends to the non-operational decision-making framework of both the PCC and the CC. A PCC’s scheme of consent and delegations could mean that the MO has a wide remit in respect of the actions of the PCC, PCC’s staff, CC and officers and staff of the force who are acting on the PCC’s behalf.*

*Accordingly, it makes practical sense for the CEO and the CC to agree arrangements whereby effective control of legal compliance can be exercised throughout the service. These should be achieved through the governance structures, arrangements and instruments approved by the PCC, but backed up by operating protocols and procedures with the CC’s legal and corporate staff. Additional considerations will arise where the CEO is also the PCC’s solicitor and appropriate arrangements will need to be in place to avoid any conflicts of interest arising.*

*In particular, the CEO (and MO) needs to ensure that:*

*• decisions taken by the PCC or CC are taken with legal advice*

*• the CEO has the right to attend (or be represented by a member of the PCC's staff) at any meeting and to advise on, or make representations on, a decision which binds the PCC*

*• the CEO and the CFOs have direct access to the independent audit committee of the PCC and the CC*

*• the CC’s legal adviser has full access to the CEO with a recognised duty to report any potential impropriety including matters arising from complaints, ‘whistleblowing’ procedures and litigation*

*• the scheme of governance, financial regulations, contract standing orders, anti-fraud/corruption strategies and other key regulatory instruments of both the PCC and the CC clearly outline roles for the CC’s legal staff and the MO so that effective legal oversight of decisions is maintained*

*• the MO has the right of access to any documents upon which the PCC or CC relied in taking relevant decisions*

*• in carrying out any investigation, the MO has unqualified access to any relevant information held by the CC which might assist in the discharge of their functions; any employee of the CC, and with the consent of the CC, any police officer*

*• effective relationships are built between the CEO, CFOs, and the CC and that there is effective exchange of information between them and regular opportunities to meet and discuss matters of interest or concern.*

* 1. Examples of established conventions which exemplify this approach, are
     1. Meeting regularly with the Force’s most senior legal advisor (the Evolve Director of Evolve Collaborative Legal Services) in the manner encouraged by *Delivering Through Your Chief Executive & Monitoring Officer* and the APACE Statement, to discuss matters of common interest in relation to lawful corporate decision making and overall legal and litigation risk.
     2. Chairing an Appropriate Authorities Liaison meeting (‘AALM’) to deal with the formal process of notification of conduct matters between the respective Appropriate Authorities and to discuss more widely, issues of common interest in relation to the organisational litigation experience and ongoing Standards & Ethics casework. Minutes of the AALM are prepared as a gist which respects the sensitivity of the subject matter and the common interest privilege which sometimes applies to those discussions – and are presented to the Commissioner’s Scrutiny, Delivery & Performance meetings and published alongside the record of those meetings.
     3. When the need arises, acting alongside the Commissioner’s Chief Finance Officer to support his process of assurance and decision-making in relation to settlement authorities in respect of litigation risk management, in instances which exceed the delegations to the Force legal team.
     4. Meeting regularly with the Commissioner to discuss and agree approaches to joint corporate standards and risk issues.
     5. Meeting on a weekly basis face to face with the Strategic Contracts & Governance Manager, the Head of Procurement and others in respect of delegated contract sign-off and the approval of draft Decision Record Forms for the PCC, seeking specific assurance in relation to process, compliance and vires matters where appropriate.
  2. **Complaints and Conduct Matters**
     1. Previous reports of the Monitoring Officer have drawn members’ attention to the work undertaken in respect of complaints and conduct matters in respect of the Chief Constable. Strictly speaking, this work is undertaken by the Chief Executive as the statutory delegate of the Commissioner, rather than as Monitoring Officer.
     2. The following is a brief summary of the conduct and ethics matters caseload during the reporting year:
        1. No new complaints or conduct matters were recorded in the Office of the Police & Crime Commissioner in respect of a holder of the office of Chief Constable;
        2. Several such matters recorded in previous years remain ongoing; and
        3. There have been no formal public complaints against the staff of the OPCC raised with me as Monitoring Officer; and
        4. No significant instances of non-compliance with the Code of Corporate Governance, of which the Monitoring Officer has been made aware.
  3. During the year, the documented arrangements in respect of anti-fraud and anti-corruption, public interest disclosures (‘whistle-blowing’) and confidential reporting, remained in place.
  4. The Commissioner continued to meet his obligations throughout the reporting year, in respect of declaring interests, gifts, gratuities and hospitality.
  5. By way of voluntary extension of the transparency arrangements, declarations of gifts, gratuities, hospitality and expenses/expenditure of both the Chief Executive and the Chief Finance Officer, have been published since shortly after I took up post.
  6. **Additional Matters of Note**
     1. I can confirm that the following well-established pattern of work has taken place during the reporting year:
        1. I continue to consider each and every decision of significant public interest made by the Police & Crime Commissioner, in respect of lawfulness and compliance with good corporate governance and the Commissioner’s transparency obligations.
        2. I have also engaged regularly and extensively with Cleveland Police Chief Officers, the Evolve Director of Collaborative Legal Services and the Director of Standards & Ethics on specific ethics and integrity matters, including matters in which Appropriate Authority decision-making required appropriate liaison;
        3. I continue to have direct access to and close and effective working relationships with the Chief Finance Officers, the Chief Officers, the Evolve Director of Collaborative Legal Services and the Audit Committee as advocated in HM Government’s PCC guidance document *Delivering Through Your Chief Executive & Monitoring Officer* and the *Association of Policing & Crime Chief Executives (APAC2E) Statement on the Role of the Chief Executive and Monitoring Officer to the Police & Crime Commissioner*.

1. **Addendum – Priority Matters Arising in the Year 2020-21**
   1. Although the main body of this report covers the 2019-20 financial year, I anticipate Members will have an interest in the exercise of the Monitoring Officer remit for the current year. Of note in that regard are the following matters:
   2. Throughout the year to date I have continued to work closely with the Chief Constable in relation to refining approaches to the effective exercise of the Monitoring Officer function, including in relation to public interest disclosures. That work remains ongoing, but one proposed product of that work is likely to be a Monitoring Officer Protocol, of the kind in place in several other policing bodies, to complement existing policies and procedures and facilitate the achievement of the Chief Constable’s aims in relation to organisational improvement in respect of Cleveland Police standards, ethics and legitimacy. The product of that work will be presented to the Audit Committee in due course.
   3. Lastly, it might be considered artificial to table this Annual Report at this point in the current year, without noting two recent significant developments:
      1. Police & Crime Commissioner Barry Coppinger relinquished the PCC role on 8 September 2020. The resignation of the Commissioner triggered the legal process for the filling of a vacancy in the office of Commissioner in circumstances where no election can take place until at least May 2021. The vacancy process is as a matter of law, within the remit of the Police & Crime Panel. The Panel met on 15 September 2020 and appointed Lisa Oldroyd to the role of Acting Police & Crime Commissioner. As Monitoring Officer I am grateful for the work of colleagues at Stockton Borough Council in facilitating the smooth exercise of the Panel’s decision making process and in liaising with me as appropriate throughout. The vacancy will be more formally noted in next year’s Annual Report but I am happy to answer Members’ questions about that recent development at this stage.
      2. Members will also be aware from information which has entered the public domain that former Commissioner Coppinger has been the subject of a referral by the Cleveland Police & Crime Panel to the Independent Office for Police Conduct. In Cleveland, initial handling of PCC complaints and conduct matters are not matters delegated by the Panel to the Commissioner’s Chief Executive & Monitoring Officer. However, should Members wish to raise any questions about that aspect of matters with me as Monitoring Officer I will be happy to endeavour to address them as far as I am able; although I would necessarily have to do so in Members’ private session.

Simon Dennis

Chief Executive & Monitoring Officer

24 September 2020

1. S1(6) Police Reform & Social Responsibility Act 2011 [↑](#footnote-ref-1)