

# HOW THE POLICE AND CRIME COMMISSIONER HOLDS THE CHIEF CONSTABLE TO ACCOUNT

## Introduction

1. Section 1(7) of the Police Reform and Social Responsibility Act 2011 provides that one of the statutory functions of Police and Crime Commissioners is to hold the Chief Constable to account for the exercise of his or her functions and for the exercise of functions of persons under the Chief Constable's direction and control.
2. In its Annual Report for 2017-2018 the Police and Crime Panel resolved that scrutiny of how the Police and Crime Commissioner holds the Chief Constable to account would be one of its priorities for 2018-2019.
3. The objective of the Panel was stated as:  
***"To ensure that the Police and Crime Commissioner is holding the Chief Constable to account in a thorough and robust manner for the delivery of the Police and Crime Plan and the operational policing decisions that the Chief Constable makes"***
4. In assessing whether this objective had been achieved the Panel stated that they would want to see:  
***"Clear evidence that the Police and Crime Commissioner is robustly challenging the Chief Constable where it is appropriate to do so"***

## Background

5. The legal relationship between Police and Crime Commissioner and Chief Constable is complex in that whilst the Commissioner appoints, and may effectively dismiss, the Chief Constable, the Commissioner has no power to direct how operational police officers perform their duties. This is solely the responsibility of the Chief Constable. This relationship is governed by a statutory document called the Policing Protocol. A link to this protocol is here  
<http://www.legislation.gov.uk/ukxi/2011/2744/made>
6. In simple terms, whilst the Commissioner, through the Police and Crime Plan, sets the strategic direction of a police force, it is the Chief Constable who then gives that strategic direction practical and operational effect.
7. It is in respect of this practical implementation of a Police and Crime Plan that the Commissioner will primarily hold the Chief Constable to account.
8. In addition to regular informal meetings with the Chief Constable, the Commissioner also holds the Chief Constable to account in two separate formal settings, the Policing Board and the Police Accountability Board.
9. The Policing Board is a private meeting between the Commissioner and Chief Constable and relevant senior staff. Although minutes and action notes from these meetings are published on the Commissioner's website, agendas and detailed reports are not. A link to the relevant page of the Commissioner's website can be

seen here <http://www.dyfedpowys-pcc.org.uk/en/accountability-and-transparency/policing-board/>

10. The Police Accountability Board is an open public meeting, again between the Commissioner and Chief Constable and their relevant senior staff. These meetings take place at various locations around the force area and agendas, reports and minutes are published on the Commissioner's website. The Commissioner has also recently given a commitment to webcast these meetings for a trial period in 2019. A link to the relevant page on the Commissioner's website is here <http://www.dyfedpowys-pcc.org.uk/en/accountability-and-transparency/policing-accountability-board/>

#### What we have done

- 11.1 In order to satisfy itself that the Commissioner has been robust and thorough in the way he holds the Chief Constable to account the Panel has taken the following steps
- (a) Sent representatives to observe meetings of the Police Accountability Board
  - (b) Reviewed agendas, reports and minutes of Police Accountability Board meetings
  - (c) Considered the published minutes/action notes of the Policing Board
- 11.2 In addition Panel Members questioned the Commissioner at the Panel meeting in November 2018 regarding how he performs this statutory function. This included questions about;
- (a) The Commissioner's understanding of the operational independence of the Chief Constable
  - (b) How the Commissioner maintains oversight of specialist police activities such as serious & organised crime, counter terrorism and covert surveillance operations
  - (c) How the Commissioner validates performance management and other data provided by the Chief Constable and his staff
  - (d) How the Commissioner ensures that operational officers are aware of the priorities in the Police and Crime Plan and are working towards their delivery.
- 11.3 During the course of that meeting the Commissioner was able to give several examples of where , by holding the Chief Constable to account, he had helped achieve positive change
- 11.4 The Commissioner was also honest and candid enough to state that he was disappointed that his efforts had not yet achieved the improvement in the efficient use of the force finances that he had hoped for.

## Analysis

- 12.1 Panel Members who have observed meetings of the Police Accountability Board described them as being conducted in a thorough and robust manner.
- 12.2 Whilst there appears to be a close and positive working relationship between the Commissioner and Chief Constable it is clear that the Commissioner is quick to challenge the Chief Constable and his senior staff both in respect of the performance of the force and how performance data is interpreted and presented.
- 12.3 It appeared to Panel Members that such challenge was always appropriate and constructive in character.

## Addendum

- 13.1 Although the Commissioner should be commended for his decision to hold Police Accountability Board meetings in public and, more recently, to webcast them, the Panel has in the past expressed some concern about the non-disclosure of reports relating to those meetings.
- 13.2 The Panel accepts entirely that there will on occasions be items of business which it is not appropriate to discuss in public and that therefore there should be a mechanism for those matters to be considered at the meeting in private.
- 13.3 It is therefore recommended that the Commissioner adopt the criteria annexed to this report and publish it on his website. The criteria reflects relevant exemptions to the publication of information set out in sections 21-44 of the Freedom of Information Act, Schedule 12A of the Local Government Act 1972 and section 13 of the Police Reform and Social Responsibility Act.
- 13.4 Where information is to be withheld from public the relevant agenda or minutes should record in general terms the matter under discussion and the grounds upon which the information is being withheld, including the Monitoring Officer's certificate in respect of the public interest test (where applicable).

**Cllr. William Powell**

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CATEGORY OF EXEMPT INFORMATION	QUALIFICATION
Information relating to or likely to reveal the identity of a particular individual or jeopardise their safety	Public interest applies (see below)
Information relating to the financial affairs of any particular person or organisation	Public interest applies (see below)
Information relating to consultations or negotiations in connection with any labour relations matter	Public interest applies (see below)
Information in respect of which a claim for legal professional privilege (LPP) could be maintained	No public interest test
Information which if disclosed would be against the interests of national security	No public interest test
Information which if disclosed might prejudice the prevention or detection of crime, the apprehension or prosecution of offenders or the administration of justice	Public interest test applies
Disclosure is prohibited under any enactment	No public interest test

### **Public Interest Test**

Information is exempt from disclosure if the Monitoring Officer certifies in respect of that information that in all the circumstances of the case the public interest in maintaining an exemption contained in the above schedule outweighs the public interest in disclosing the information.