

DECISION REPORT
JUNE 2013
JOINT REPORT OF THE TREASURER AND THE CHIEF CONSTABLE

**JOINT CODE OF CORPORATE GOVERNANCE FOR THE POLICE AND CRIME
COMMISSIONER AND THE CHIEF CONSTABLE OF DERBYSHIRE**

1. PURPOSE OF THE REPORT

- 1.1 To outline and adopt the 6 principles of Good Governance that comprise best practice in governance for policing and approve the Joint Code of Corporate Governance for Derbyshire.

2. BACKGROUND

- 2.1 Every public body operates through a framework of governance. Irrespective of the executive arrangements which are in place, good governance should ensure that the way a public body operates is based on sound decision making, with an effective process to support it.
- 2.2 In a Policing context, good governance is about how those responsible for the service ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems, processes, cultures and values by which all local government bodies are directed and controlled, and through which they account to, engage with and, where appropriate, lead their communities. These principles apply to the Police and Crime Commissioner and the Chief Constable in just the same way as they applied to the police authority prior to the 2012 reforms.

3. INFORMATION AND ANALYSIS

- 3.1 The structure of policing in England and Wales is set out in the 2011 Policing and Social Responsibility Act. Under the terms of the legislation, the existing 43 police authorities in London and the City, England and

Wales, were replaced by police commissioners, each of whom will be elected every 4 years by the local community.

3.2 Police and crime commissioners are primarily responsible for most of the statutory responsibilities of the former police authorities. Policing in England and Wales has for many years been characterised in terms of a “tripartite structure”, the three partners being the Home Secretary, the police authority, and the Chief Constable. Three important changes to the landscape resulting from the 2011 Act are:

- abolition of the police authority and the transfer of most of its functions to the elected Police and Crime Commissioner (Commissioner)
- establishment of both the Commissioner and the Chief Constable (CC) as corporations sole
- creation of an additional body – the police and crime panel (PCP) – whose core role is to hold the Commissioner to account.

These changes restated some of the most fundamental relationships within the service.

3.3 The reconfiguration of roles, and the ministerial intention to create a clearer distinction between the Commissioner and the Chief Constable, also redefined the allocation of day to day responsibilities in areas such as finance.

3.4 A comprehensive list of the changes introduced by the 2011 Act, and their implications for local governance, is outlined below.

- The statutory powers and duties are concentrated in a single elected individual rather than a police authority of 17 members including 9 councillors and 8 independents
- The traditional arrangements for local governance, operating through an authority and subordinate committees and boards, has disappeared
- The Commissioner may appoint a deputy or deputies, who may take on specific responsibilities
- The Commissioner is required to appoint a chief executive and a chief

financial officer; these posts cannot be combined.

- The creation of the Police and Crime Panel (PCP) recognises the concentration of power and the need to ensure that the links into local authorities are not weakened. The standard model for a PCP is 10 Councillors (nominated by reference to political and geographical balance) and 2 co-opted members. In Derbyshire, the PCP comprises 13 Councillors and 2 co-opted members.
- The duty of the PCP is to act as a check and balance on the PCC. As such it is entitled to hold the Commissioner to account by requesting reports and attendance at public PCP sessions. In addition, however, there are specific checks including the requirement for the PCP to confirm the appointment of the Chief Constable, to approve the precept, and to confirm the police and crime plan and PCC annual report.
- Both the Commissioner and the Constabulary are subject to the Accounts and Audit (England) Regulations 2011 and as such both have to prepare a set of accounts in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting and are subject to audit. Group accounts must be completed by the Commissioner for the Commissioner and the Chief Constable. The Chief Constable must complete individual accounts. Both are required to produce an Annual Governance Statement.

3.5 In recognition of those changes, the Chief Constable's chief financial officer has become a statutory 'Section 151' officer in his or her own right, in addition to the Commissioner's Treasurer. A financial management code of practice¹ was issued by Home Office in January 2012, setting out the relationships between the various parties.

3.6 The Commissioner and the Chief Constable will be jointly responsible for internal audit, and for establishing an audit committee – for Derbyshire this is the Joint Audit Risk and Assurance Committee (JARAC).

¹ <https://www.gov.uk/government/publications/police-financial-management-code-of-practice>

- 3.7 One of the most fundamental developments resulting from the 2012 reforms is the new status of the Chief Constable. Prior to the changes, the force would be an integral part of the police authority's governance framework and would contribute to the review process. From 2012, the Chief Constable has responsibilities for governance within the force in his own right. This means that there will be two freestanding (but aligned) processes within the service for ensuring good governance. In most respects the principles and the implementation will be the same for the Commissioner and the Chief Constable.
- 3.8 Therefore the Commissioner and the Chief Constable have determined that there should be a Joint Code of Corporate Governance. The Draft Code is attached at APPENDIX A to this report. There are areas specific to each corporation sole which are reflected in the Code.
- 3.9 The Policing Protocol Order 2011² came into force on 16 January 2012 and extends to England and Wales. The Protocol sets out how the new policing governance arrangements will work. It clarifies the role and responsibilities of police and crime commissioners, the mayor's office for policing and crime, Chief Constables, police and crime panels and the London assembly police and crime panel. It outlines what these bodies are expected to do and how they should work together to fight crime and improve policing.

4. RECOMMENDATIONS

- i. That the Derbyshire Joint Code of Corporate Governance attached at Appendix A to the Report be approved.

5. IMPLICATIONS

All implications are assessed and scored to the table below.

HIGH – supporting explanation and narrative required and to be contained within the report

² <https://www.gov.uk/government/publications/policing-protocol-order-2011-statutory-instrument>

MEDIUM – narrative to be contained within the report at the discretion of the author

LOW – no narrative required

	LOW	MEDIUM	HIGH
Crime & Disorder		X	
Environmental	X		
Equality & Diversity	X		
Financial		X	
Health & Safety	X		
Human Rights	X		
Legal		X	
Personnel	X		

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BACKGROUND PAPERS

1. Delivering Good Governance in Local Government -Guidance Note for practitioners: CIPFA publications

ATTACHMENTS

Appendix A. Derbyshire Joint Code of Corporate Governance

DERBYSHIRE CONSTABULARY
POLICE AND CRIME COMMISSIONER FOR DERBYSHIRE



DERBYSHIRE
JOINT CODE OF CORPORATE GOVERNANCE

June 2013
VERSION 1.0

DERBYSHIRE JOINT CODE OF CORPORATE GOVERNANCE

Police and Crime Commissioner for Derbyshire

Chief Constable of Derbyshire

1. Introduction

- 1.1. Every public body operates through a framework of governance. Irrespective of the executive arrangements which are in place, good governance should ensure that the way a public body operates is based on sound decision making, with an effective process to support it.
- 1.2. In a Policing context, good governance is about how those responsible for the service ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems, processes, cultures and values by which all local government bodies are directed and controlled, and through which they account to, engage with and, where appropriate, lead their communities. These principles apply to the Police and Crime Commissioner and the Chief Constable in just the same way as they applied to the police authority prior to the 2011/12 reforms.
- 1.3. The Act¹ requires the Commissioner to issue a police and crime plan² for the period from election (plan must be issued before 1st April following commissioner election) to the end of the financial year in which the next commissioner election is expected to take place. It outlines the police and crime objectives (outcomes) and the strategic direction for policing in the area. Each corporation sole must have regard to the plan and the Police and Crime Commissioner will have regard to the priorities of the responsible authorities³ during its development.
- 1.4. Governance is about a body putting in place proper arrangements for the conduct of its affairs and facilitating the proper exercise of its functions. It comprises the systems, processes, culture and values by which the body is directed and controlled.

¹ Police Reform and Social Responsibility Act 2011

² <http://www.derbyshire-pcc.gov.uk/Public-Information/Police-and-Crime-Plan.aspx>

³ Derbyshire County Council, Derby City Council & the District and Borough Councils

- 1.5. This Code of Corporate Governance describes how the Police and Crime Commissioner for Derbyshire (the Commissioner) and the Chief Constable of Derbyshire (the Chief Constable) discharge their responsibilities in this respect.
- 1.6. The Commissioner has overarching statutory responsibilities to: -
- secure the maintenance of the police force for their area; and
 - hold the Chief Constable of Derbyshire Constabulary to account for the exercise of his functions and those of persons under his direction and control.
 - setting and updating a Police and Crime Plan
 - setting the Constabulary budget and council tax precept
 - regularly talking to our communities
 - appointing – and where necessary dismissing – the Chief Constable
 - commissioning the services of partner agencies to deliver a joined-up approach to crime, including the distribution of policing grants from central Government and making Crime And Disorder grants
- 1.7. The Chief Constable is responsible for all operational matters and has direction and control over officers and staff, other than those within the Commissioner’s office. This along with wider national responsibilities is set out within the Strategic Policing Requirement⁴.

2. Good Governance

- 2.1. The CIPFA Framework “Delivering Good Governance in Local Government” Guidance Note for Police (2012) sets out the six principles on which effective governance should be built: -
- Focusing on the purpose of the Commissioner and the Constabulary, and on outcomes for the community, and creating and implementing a vision for the local area
 - Leaders, officers and partners working together to achieve a common purpose with clearly defined functions and roles;
 - Promoting values for the Commissioner and demonstrating the values of good governance through upholding high standards of conduct and behaviour;

⁴ <https://www.gov.uk/government/publications/strategic-policing-requirement>

- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
- Developing the capacity and capability of the Commissioner and the Officer of the Police and Crime Commissioner to be effective; and
- Engaging with local people and other stakeholders to ensure robust public accountability.

2.2. To achieve this, a framework – the Code of Corporate Governance, has been developed to ensure that these principles are fully integrated into the conduct of the Commissioner’s and the Chief Constable’s business. As establishing a means of demonstrating compliance. An Annual Governance Statement is produced each year which reports publically on the review of Governance arrangements and compliance with the code.

3. **The Code of Corporate Governance**

- 3.1. The Commissioner and the Chief Constable have developed a joint Code of Corporate Governance which incorporates the six good governance principles, develops these in a local context, and sets out the arrangements for reviewing their effectiveness.
- 3.2. The way in which each of the 6 principles of good governance is put into practice by the Commissioner and the Chief Constable is set out below: -

CORE PRINCIPLE 1: Focusing on the purpose of the Commissioner and the Constabulary and on outcomes for the community, and creating and implementing a vision for the local area.

To achieve this, the Commissioner and the Chief Constable will:-

- develop and promote the Commissioner’s purpose and vision
- review on a regular basis the Commissioner’s vision for the local area and its impact on governance arrangements
- ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all parties
- publish an annual report on a timely basis to communicate the Commissioner’s activities and achievements, the financial position and performance

- decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available
- put in place effective arrangements to identify and deal with failure in service delivery
- decide how value for money is to be measured and make sure that the Commissioner/Chief Constable or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.

CORE PRINCIPLE 2: Leaders, officers and partners working together to achieve a common purpose with clearly defined functions and roles

To achieve this, the Commissioner and the Chief Constable will:-

- set out a clear statement of the respective roles and responsibilities of the senior officers and staff of the office of the Commissioner and the Force
- Determine a scheme of delegation and consent, including a formal schedule of those matters specifically reserved for decision by the Commissioner and those delegated to the Chief Constable, taking account of relevant legislation, and ensure that it is monitored and updated when required.
- Develop protocols to ensure that the Commissioner, the deputy Commissioner, the Chief Executive and Chief Constable negotiate their respective roles early in the relationship and that a shared understanding of the roles and objectives is maintained
- make individual senior officers (usually the Section 151 officers) responsible to the Commissioner and Chief Constable for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control
- develop protocols to ensure effective communication between the Commissioner, the Deputy Commissioner, Chief Constable and officers in their respective roles

- set out the terms and conditions for remuneration of the Commissioner, Deputy Commissioner, Chief Constable and officers and an effective structure for managing the process including an effective remuneration panel (if applicable)
- ensure that effective mechanisms exist to monitor service delivery
- Ensure that the Commissioner's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated
- when working in partnership:
 - ensure that there is clarity about the legal status of the partnership
 - ensure that representatives or organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions

In addition the Commissioner will:-

- set out a clear statement of the roles and responsibilities of the Commissioner, and the Deputy Commissioner, and the Commissioner's approach towards putting this into practice
- Make a chief executive or equivalent responsible and accountable to the Commissioner for all aspects of operational management of the Police and Crime Commissioner
- make a senior officer (usually the monitoring officer) responsible to the Commissioner for ensuring that agreed procedures are followed and that all applicable statutes, regulations are complied with
- when working in partnership ensure that the Commissioner and Deputy Commissioner are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the Commissioner

CORE PRINCIPLE 3: Promoting values for the Commissioner and demonstrating the values of good governance through upholding high standards of conduct and behaviour

To achieve this, the Commissioner and the Chief Constable will:-

- ensure that standards of conduct and personal behaviour expected of those holding public office and their staff are defined and communicated through codes of conduct and protocols
- put in place arrangements to ensure that the Commissioner, Deputy Commissioner and officers of the Commissioner and Chief Constable are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice
- develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations, and communicate these between the Commissioner/Chief Constable's, staff, the community and partners
- put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice
- develop and maintain an effective standards monitoring process
- in pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively.
- put in place arrangements to ensure that the Commissioner, the Chief Constable and their officers and staff are not influenced by prejudice, bias, or conflicts of interests in dealing with different stakeholders and put in place steps to ensure that they continue to operate in practice.

In addition the Commissioner will:-

- ensure that the Commissioner's and Chief Constable's leadership sets a tone for the organisation by creating a climate of openness, support and respect ensure that the expected standard of conduct and personal behaviour of those holding public office and their staff are clearly communicated; and
- use the organisations shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the Office of the Police and Crime Commissioner

CORE PRINCIPLE 4: Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

To achieve this, the Commissioner and the Chief Constable will: -

- develop and maintain an effective review and scrutiny function which encourages constructive challenge and enhances the Commissioner's performance overall and of any organisation for which it is responsible
- develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based
- put in place arrangements to safeguard the Commissioner, Deputy Commissioner, Chief Constable and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice
- develop and maintain an effective Audit Committee (or equivalent)
- ensure that effective, transparent and accessible arrangements are in place for dealing with complaints
- ensure that those making decisions whether for the Commissioner/Chief Constable or partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications
- ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately
- ensure that risk management is embedded into the culture, with all parties recognising that risk management is part of their job
- ensure that arrangements are in place for whistle blowing to which staff and all those contracting with the Commissioner and Chief Constable have access
- actively recognise the limits of lawful activity, for example the ultra vires doctrine, but also strive to utilise powers to the full benefit of the community
- recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on the Commissioner/Chief Constable by public law

- observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice into the Commissioner/Chief Constable’s procedures and decision making processes.

CORE PRINCIPLE 5: Developing the capacity and capability of the Commissioner, officers of the Police and Crime Commissioner and the Constabulary to be effective

To achieve this, the Commissioner and the Chief Constable will: -

- provide induction programmes tailored to individual needs and opportunities for the Commissioner, deputy Commissioner, Chief Constable and officers to update their knowledge on a regular basis
- ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood
- assess the skills required by the Commissioner, deputy Commissioner, Chief Constable and officers and make a commitment to develop those skills to enable roles to be carried out effectively
- ensure that effective arrangements are in place for reviewing the performance of the Commissioner, deputy Commissioner, Chief Constable and the organisation as a whole, and agreeing an action plan which might for example aim to address any training or development needs
- ensure that career structures are in place for officers to encourage participation and development

In addition the Commissioner will:-

- develop skills on a continuing basis to improve performance including the ability to scrutinise and challenge and to recognise when outside expert advice is needed
- ensure that effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the Commissioner

CORE PRINCIPLE 6: Engaging with local people and other stakeholders to ensure robust public accountability

To achieve this, the Commissioner and the Chief Constable will: -

- develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making

In addition, the Commissioner will:-

- define who the Commissioner is accountable to, and for what
- consider those institutional stakeholders to whom the Commissioner is accountable and assess the effectiveness of the relationships and any changes required
- produce an annual report on the activities of the Commissioner in relation to monitoring its own performance and that of the Chief Constable and force
- ensure that clear channels of communication are in place with all sections of the community and other stakeholders and put in place monitoring arrangements to ensure that they operate effectively
- ensure arrangements are in place to enable the Commissioner to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands
- establish a clear policy on the types of issues that the Commissioner will meaningfully consult on or engage with the public and service users, including a feedback mechanism for those consultees to demonstrate what has changed as a result
- on an annual basis, publish a performance plan giving information on the Commissioner's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period.
- ensure that the Commissioner and the Office of the Police and Crime Commissioner as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.

4. Arrangements for Review of Governance

4.1. The Commissioner and the Chief Constable

4.1.1. The Commissioner and the Chief Constable have put in place the following arrangements to review the effectiveness of their Code of Corporate Governance:

4.1.2. The Commissioner and the Chief Constable are responsible for the production of a Code of Corporate Governance relevant to their corporation sole. In Derbyshire this is a joint Statement.

4.1.3. The Chief Constable is responsible for corporate governance issues affecting the Constabulary and for ensuring that appropriate reviews are carried out in key areas.

4.1.4. Each year the Commissioner and the Chief Constable each have responsibility for ensuring that reviews of the effectiveness of the governance framework are undertaken. These are explained in the appropriate Annual Governance Statement. The reviews of effectiveness will take place each year as the Annual Governance Statements are produced. The reviews will provide assurance that governance arrangements are in place and operating effectively.

4.1.5. Once approved the Annual Governance Statements will sit alongside the relevant Statements of Accounts. The Annual Governance Statements may, where appropriate, identify a number of significant governance issues where governance arrangements can be improved and enhanced. The Chief Constable will sign the Chief Constable's statement. The Commissioner's Statement is signed by the Commissioner and the Chief Executive.

4.2. The Joint Audit Risk and Assurance Committee (JARAC)

4.2.1. The purpose of the JARAC is to provide independent assurance on the adequacy of the risk management framework, the associated control environment, independent scrutiny of the organisation's financial and non-financial performance to the extent that it affects exposure to risk and weakens the control environment, and to oversee the financial reporting process.

4.3. Internal Audit

4.3.1. The primary role of internal audit is to give assurance to the Commissioner and the Chief Constable as to the effectiveness of controls in place to manage their respective organisations. The JARAC considers the annual report from the internal auditors and which will cover whether there are any major control weaknesses. The review of corporate governance and risk management periodically feature in the annual audit plan and which is subject to consideration by the JARAC and approval by the Strategic Governance Board. There is a joint annual audit plan

4.4. External Audit

4.4.1. The role of the external auditors is to ensure that the Commissioner and the Chief Constable have made proper arrangements for securing economy, efficiency and effectiveness in their use of resources and to give reasonable assurance that the financial statements are free from material misstatement. The plans and reports of the external auditors are considered by the JARAC.

4.5. Her Majesty's Inspectorate of Constabulary (HMIC)

4.5.1. The role of the HMIC is to promote the efficiency and effectiveness of policing through inspection to ensure agreed standards are achieved and maintained, good practice is disseminated and performance is improved. HMIC reports are sent to the Commissioner and the Chief Constable for consideration to appropriate action.

Electronically Signed

Electronically Signed

Signed
Alan Charles
Police and Crime Commissioner for Derbyshire

Signed
Mick Creedon
Chief Constable for Derbyshire

13 June 2013

13 June 2013