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Meetings and Information officer  
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31 August 2016

t: 0300 1226007

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Email to: xxxxxxxx@xxxxx

Dear xxxxxxxx

**FOI Request: FOI 26/16**

I write in connection with your request for information sent to the Police and Crime Commissioner for Derbyshire on 9 August 2016 asking for information under the Freedom of Information Act. Please find below a note of your request and our response detailed in italics below:

**Does the Chief Constable (and other Chief Police Officers in your force/constabulary) have a contract with the Police and Crime Commissioner / Police Authority or equivalent?**

*Yes – the contract is with the Police and Crime Commissioner since November 2012 and prior to this date with the Derbyshire Police Authority. Please note that since November 2012 the Chief Constable became responsible for the Chief Officers and as such queries in relation to Contracts for the other Chief Police Officers should be directed to the Force.*

**If yes – what specific contractual matters are detailed therein (for each chief officer)?**

**If unwilling to identify the specific contractual terms therein, please provide details of the broad terms and conditions detailed therein for each chief officer (for example does the contract provide for private medical insurance /golden hello payments or other inducements).**

*The Accounts and Audit (Amendment No 2) (England) Regulations 2009 came into force on 31 March 2010 and states that all senior staff and officers are required to disclose their salaries, fees, allowances, bonuses, expenses, redundancy payments, etc., and as such this information is published in the Group Accounts annually. For ease I have provided the direct link to the Group Accounts for the last five years and indicated the page number where that information can be found:*

[2015/16 page 35](#)

[2014/15 page 35](#)

[2013/14 page 31](#)

[2012/13 page 33](#)

[2011/12 page 26](#)

*I am unable to confirm or deny whether any further information relating to your request is held by the Office of the Police and Crime Commissioner in accordance with the exemption contained at Section 40(5) of the Freedom of Information Act 2000.*

*If such information did exist then we would not be obliged to supply the information you have requested in pursuance of exemptions, Section 40(2), which exist under the Freedom of Information legislation.*

*Section 17 of the Freedom of Information Act 2000 requires the Office of the Police and Crime Commissioner, when refusing to provide such information (because the information is exempt), to provide you, the applicant, with a notice. This notice should*

*(a) State that fact,*

*(b) Specifies the exemption in question and*

*(c) States (if that would not otherwise be apparent) why the exemption applies.*

### **Legislative Basis**

*Section 40 (2) & (5) – Personal Information and Third Party Information.*

*The information you have requested if it exists, would be exempt from disclosure in pursuance of Section 40(2) of the Freedom of Information Act 2000. This absolute exemption applies because the right given under the Freedom of Information Act 2000 to request official information held by public authorities, does not apply to personal data or personal data of third parties.*

*By way of further explanation the information which you seek if it existed would potentially contain personal information relevant the residents of the address. For the purpose of your request, I am satisfied from my reading of your request that this would appear not to relate to yourself. As such, the exemptions under Section 40(2) and (5) of the Freedom of Information Act 2000 would be applicable.*

*When an individual reports or has contact with the Police in relation to an incident or crime it is done so in the strictest of confidence between the two parties. We therefore have no legal requirement to release facts and details of the complaint*

*and subsequent investigations to the world at large, nor to either confirm or deny that investigation has ever taken place as that may in itself disclose personal information about a third party.*

*The Police and Crime Commissioner, being the data controller of the information, has a legal duty to maintain that privacy and confidentiality. Any disclosure would infringe the Data Protection Principles contained within the Data Protection Act 1998.*

*Guidance from the Information Commissioner states, "However, the definition of personal data provides that "personal data shall mean any information relating to an identified or identifiable natural person ...; an identifiable person is one who can be identified, directly or indirectly..."*

*This definition would suggest that an organisation would be disclosing personal data where it releases information which can be linked to particular individuals. Taking into account the purpose of the Directive this seems a sensible view. It is a view which the Information Tribunal took when deciding whether a local authority should release the addresses of empty properties. The Tribunal held that releasing such addresses would involve releasing personal data where the properties were owned by individuals."*

**Details of any payments, reimbursements or allowances paid or made to each of your chief officers, other than those explicitly permitted in police regulations.**

*As per the answer to the previous question we are required to publish details of all payments made to Senior Officers and Senior Staff and as such information on all payments can be found in the group accounts.*

**In addition I would be obliged if you could provide details of any statutory authority that permits the Police and Crime Commissioner/ Police Authority or equivalent to enter into any contracts as detailed in this request with Chief Officers.**

*Section 38 and Schedule 8 (Part 1) of the Police Reform and Social Responsibility Act 2011 outlines the requirement and process for the appointment of a Chief Constable. Sections 39 and 40 of the Act outline the Chief Constable's responsibilities for appointing a Deputy and Assistant Chief Constables.*

Should you have any further enquiries concerning this matter, please write or contact Elizabeth Kelly, Meetings and Information Officer, on telephone number 0300 122 6007 quoting the reference number above.

Yours faithfully

*Electronically Signed*

Elizabeth Kelly  
Meetings and Information Officer  
Office of the Police and Crime Commissioner for Derbyshire



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27 September 2016

Email to: xxxxxxxxxxx@xxxxx

Dear xxxxxxxx

**FOI Request: FOI 26/16**

I write in connection with your request for information sent to the Police and Crime Commissioner for Derbyshire on 9 August 2016 and your request for an internal review dated 1<sup>st</sup> September.

We have now reviewed the information we hold and can confirm that further public information is available that may provide the information you seek. A report was presented to the Strategic Governance Board meeting on 15 April, 2013 entitled 'Chief Constable Benefits Scheme', the full agenda and covering reports can be found on the meetings page of the Commissioner's website.

I can confirm that the recommendation to approve the Chief Constable Benefits Scheme 2013 was given as per the Decision Notice which can be accessed via the Commissioner's website, but is attached with this response for your convenience.

In your email dated 1<sup>st</sup> September you advised that we did not address the following question:

**In addition I would be obliged if you could provide details of any statutory authority that permits the Police and Crime Commissioner/ Police Authority or equivalent to enter into any contracts as detailed in this request with Chief Officers.**

Paragraph 14 of Schedule 1 of the Police Reform and Social Responsibility Act 2011 (PRSRA 2011) makes it clear that a Police and Crime Commissioner can do anything which is "calculated to facilitate, or is conducive or incidental to" the exercise of its functions and specifically states that this includes "entering into contracts."

We include an extract below for ease of reference from Schedule 1 of the PRSRA 2011:

### **Incidental powers**

#### **14**

- (1) A police and crime commissioner may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of commissioner.
- (2) That includes—
  - (a) entering into contracts and other agreements (whether legally binding or not);

However, if your question is in fact in respect of the appointment of a Chief Constable we would suggest section 38 of the PRSRA 2011 is the relevant section (included below):

### **38 Appointment, suspension and removal of chief constables**

- (1) The police and crime commissioner for a police area is to appoint the chief constable of the police force for that area.

Section 38 is subject to Parts 1 and 2 of Schedule 8 of the PRSRA 2011 and I include an extract to assist with your query.

Extract from Part 1 of Schedule 8 of the PRSRA 2011:

### **Part 1 Appointment of Chief Constables**

#### **Introduction**

##### **1**

A police and crime commissioner must comply with this Part of this Schedule in appointing a chief constable under section 38.

#### **No appointment until end of confirmation process**

##### **2**

- (1) A police and crime commissioner must not appoint a person to be chief constable unless—
  - (a) that person [is eligible for appointment], and
  - (b) the end of the confirmation process has been reached.
- [(1A) A person is eligible for appointment if the person is or has been—
  - (a) a constable in any part of the United Kingdom, or
  - (b) a police officer in an approved overseas police force, of at least the approved rank.
- (1B) An “approved overseas police force” is a police force which—
  - (a) is in a country or territory outside the United Kingdom designated by regulations made by the Secretary of State, and
  - (b) is designated in relation to that country or territory by the regulations.
- (1C) The “approved rank” for an approved overseas police force is the rank which is designated as the approved rank for that police force by the regulations.
- (1D) The College of Policing must recommend to the Secretary of State matters to be designated under this paragraph.
- (1E) The Secretary of State may make regulations under this paragraph only if they give effect to a recommendation under sub-paragraph (1D).]
- (2) The end of the confirmation process is reached—
  - (a) in a case where paragraph 7 applies, when the first of the events mentioned in sub-paragraphs (3) and (4) occurs; or

(b) in a case where paragraph 8 applies, when the first of the events mentioned in sub-paragraphs (3) and (5) occurs.

(3) The first event mentioned in sub-paragraphs (2)(a) and (2)(b) is the period of three weeks mentioned in paragraph 4(6) ending without the relevant police and crime panel having given the police and crime commissioner any report on the proposed appointment.

(4) The second event mentioned in sub-paragraph (2)(a) is the police and crime commissioner notifying the panel under paragraph 7(3) of the decision whether or not to accept the panel's recommendation in relation to the appointment.

(5) The second event mentioned in sub-paragraph (2)(b) is the end of the confirmation process being reached in accordance with regulations under paragraph 10.

### **Notification of proposed appointment**

#### **3**

(1) A police and crime commissioner must notify the relevant police and crime panel of each proposed appointment of a chief constable by the commissioner.

(2) In such a case, the police and crime commissioner must also notify the relevant police and crime panel of the following information—

(a) the name of the person whom the commissioner is proposing to appoint (“the candidate”);

(b) the criteria used to assess the suitability of the candidate for the appointment;

(c) why the candidate satisfies those criteria; and

(d) the terms and conditions on which the candidate is to be appointed.

Should you have any further enquiries concerning this matter, please write or contact Elizabeth Kelly, Meetings and Information Officer, on telephone number 0300 122 6007 quoting the reference number above.

Yours sincerely

*Electronically Signed*

Elizabeth Kelly  
Meetings and Information Officer  
Office of the Police and Crime Commissioner for Derbyshire